

Sacred Water, Standing Rock

Power- and Environmental Discourses in North American Indigenous Peoples' Media Texts

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Tiivistelmä - Referat - Abstract Tämä tutkimus käsittelee Pohjois-Amerikan alkuperäiskansojen mielenosoituksia Dakota Access -öljyputkea vastaan. Mielenosoitukset järjestettiin vuosina 2016 ja 2017 Standing Rockissa, Pohjois- ja Etelä-Dakotassa, ja ne synnyttivät Stand with Standing Rock -ympäristöliikkeen. Erityisenä tutkimuskohteena ovat Pohjois-Amerikan alkuperäiskansojen tuottamat mediatekstit ja niissä esiintyvät valtaan ja ympäristöön liittyvät diskurssit, joita tutkitaan Norman Faircloughin kehittämän kriittisen diskurssianalyysin avulla. Lisäksi tutkielmassa käsitellään diskurssien yhteiskunnallisia vaikutuksia. Tutkimusaineistona on yhteensä 46 <i>Indian Country Today</i> -verkkolehdestä julkaistua uutistekstiä. Tekstit ovat ilmestyneet elokuun 2016 ja helmikuun 2019 välisenä aikana. Mediatekstien tutkimuksen lisäksi Stand with Standing Rock -ympäristöliikettä kontekstualisoidaan tutkimalla mielenosoitusten taustalla vaikuttaneita tekijöitä.			
Tutkimus osoitti, että alkuperäiskansojen tuottamat ympäristöön liittyvät mediadiskurssit ovat samantyyppisiä kuin Yhdysvaltain enemmistön tuottamat mediadiskurssit. Ympäristön saastuminen näyttäytyy vakavana uhkana, johon alkuperäiskansojen on nopeasti reagoitava pystyäkseen pelastamaan ympäristön ja oman kulttuurinsa jälkipolville. Valtaan liittyvät diskurssit heijastelevat alkuperäiskansojen ja Yhdysvaltain enemmistön välisten suhteiden nykytilaa ja kehitystä. Diskurssianalyysin tulokset osoittavat, että alkuperäiskansat suhtautuvat edelleen epäluuloisesti Yhdysvaltain enemmistöön, mutta ryhmien väliset suhteet ovat kehittymässä parempaan suuntaan. Mielenosoitusten herättämä maailmanlaajuinen huomio on osaltaan tulosta alkuperäiskansojen ja Yhdysvaltain enemmistöön kuuluvien aktivistien välisestä yhteistyöstä.			
Tämä tutkimus tuottaa ja syventää tietoa Pohjois-Amerikan alkuperäiskansojen käyttämistä mediadiskursseista. Diskurssianalyysin tulokset tuottavat tietoa Pohjois-Amerikan alkuperäiskansojen ja Yhdysvaltain enemmistön suhteista ja näissä suhteissa tapahtuneesta kehityksestä. Lisäksi tutkimustuloksia voidaan hyödyntää tulevien mediatutkimusten ja erityisesti kriittistä diskurssianalyysia hyödyntävien tutkimusprojektien vertailutietona.			
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1 Introduction

Energy Transfer Partners started a construction project in order to build an oil pipe from North Dakota to Illinois in June 2014. The purpose of the \$3,78 billion project was to complement the oil pipeline network in the United States. The oil pipeline was referred to both as Bakken Pipeline and Dakota Access Pipeline during the project, and it is 1,172 miles long transferring 470,000 barrels of oil in 24 hours.¹

Indigenous peoples resist the project and especially the plans according to which the pipeline would transfer oil beneath the Missouri River. They fear that a possible leak would contaminate the water resources of Standing Rock.² Moreover, indigenous peoples consider water resources sacred, and initially they were alarmed about the situation because their traditional oral history contains a story according to which a black snake shall pose a threat to indigenous peoples. According to their interpretation, the black snake is a metaphor for the oil pipeline. Furthermore, indigenous peoples treat the earth sacred and the construction work would disturb the burial grounds of their ancestors. According to their traditional beliefs, the transmigration of souls shall continue after the death of an individual especially if one has met a violent death. Therefore, ancient cemeteries should stay intact.

Activists on environmental and indigenous issues gathered to a demonstration against the project in Standing Rock in the summer 2016. Next autumn, these demonstrations led to a confrontation between the protesters and the law enforcement of Morton County and the case gained international attention in the media. At this stage, environmental activists belonging to American majority expressed their support for the protest. Demonstrations to show solidarity for this cause were held in Chicago, New York City, Los Angeles, and in Denver in November. Some farmers in Iowa shared the concerns of the Standing Rock tribe and they refused to give a permission to build a pipeline on their property.

Among the U.S. politicians, especially Senator Bernie Sanders expressed his support for indigenous peoples. Furthermore, President Barack Obama insisted that the case should be solved without violence, and several members of the Congress deprecated violent police actions against the demonstrators.

Indigenous peoples appealed also for United Nations Human Rights Council on their case, and the council concluded that the Standing Rock tribe should have had their say in the beginning of the project and that indigenous peoples have a right to gather and hold a peaceful demonstration

¹ Tina Parke-Sutherland, "Ecofeminist Activism and the Greening of Native America," *American Studies in Scandinavia* 50, no. 1 (2018), 137–138.

² *Ibid.*, 138–139.

against the Dakota Access Pipeline project. The camps of the protesters were eventually removed in February 2017. In March, indigenous peoples gathered for a demonstration in Washington D.C. The construction work was completed during the spring, and the pipeline was taken in operation in the beginning of June 2017. The environmental movement which emerged from spontaneous demonstrations continues to lobby against the pipeline. In addition, Standing Rock and other affected tribes have joined their forces in the court room, and this legal battle continues on the present day.

Standing Rock was established in the 19th century but the history of the Oceti Sakowin³ living in the area is much longer. Indigenous peoples have suffered in many ways from the colonialist politics of the United States. According to the philosophy and worldviews of the indigenous peoples, the land is no one's property, and tribes ended up in a new situation when the authorities of the United States wished to negotiate property rights with them. The treaties were dictated by the authorities of the United States, and indigenous peoples might not have had accurate information of the contents and the consequences of those documents. They believed that treaties would ultimately protect the land from intrusions but, in fact, those gave the United States a permission to rule the lands and implement policies necessary from the perspective of the Americans.

The culture of the Plains Indians was threatened when they were forcibly moved to areas that were unsuitable for their traditional hunting culture. Settlers' aim was to assimilate indigenous peoples and they implemented violent policies in order to reach their goals. According to Dr. Rani-Henrik Andersson, e.g. the lands reserved for indigenous peoples in Pine Ridge were unsuitable for a successful farming, and the authorities of the United States showed rarely sympathy for the struggles of indigenous peoples.⁴

Andersson states that the United States tried to compensate its wrongdoings for indigenous peoples after World War II. Indigenous peoples had served in the armed forces during the war, and in 1946 the federal government enacted Indian Claims Commission Act. The Indian Claims Commission considered and settled claims on cases that had occurred before its establishment. For Indigenous peoples this meant an opportunity to claim for a compensation on wrongs. and eventually, decisions that had violated their rights were cancelled or amended.⁵ On the other hand, simultaneously with these improvements the federal authorities decided to dam the Missouri River and, as a consequence, the river overflowed its banks to the fields of indigenous peoples. Tribes living in Standing

³ The Oceti Sakowin denotes to the seven indigenous peoples of the Plains.

⁴ Rani-Henrik Andersson, *Lakotat: Kotkan Ja Biisonin Kansa* (Helsinki: Suomalaisen Kirjallisuuden Seura, 2009), 234, 244.

⁵ Rani-Henrik Andersson, *Lakotat: Kotkan Ja Biisonin Kansa* (Helsinki: Suomalaisen Kirjallisuuden Seura, 2009), 292–293.; Arrell M. Gibson, "Indian Land Transfers," in *Handbook of North American Indians, Vol. 4, History of Indian-White Relations*, eds. Arthur J. Ray and Wilcomb E. Washburn, Vol. 4 (Washington: Smithsonian Institution, 1988), 228.

Rock managed to obtain compensation for the lands they had lost but many Native Americans had to move from their homes.⁶

In the 50's and 60's the United States implemented again termination policies on indigenous peoples and their cultures. As a counterreaction, indigenous peoples raised their rights on the agenda and founded non-governmental organizations, which aimed at defending the rights of indigenous peoples. In many cases, the confrontations between indigenous peoples and the U.S. authorities escalated into violence. In addition, the Pine Ridge tribe had internal political confrontations which escalated into a major demonstration in Wounded Knee in the beginning of the 70's. Eventually, the U.S. Army scattered the demonstrators.⁷

Debates on land use and public right access have continued until present day. Many Native Americans have adapted the western culture and assimilated themselves to the majority. Still, indigenous peoples suffer from unemployment, discrimination in the labour market, poverty, and health problems that in fact are a consequence of adapting the western culture and lifestyle.

Conflicts related to environmental protection usually manifest clashes between different ideologies and worldviews. Often one party aims at financial profits by taking advantage of natural environments, either by direct or indirect means, and the other supports environmental protection and articulates for nature preservation and intact environment.⁸ Often the specific character of an environment is a motivation for preservation and often these areas might offer the best possible habitat for severely endangered species.

The research objective of this thesis is to explore the rhetoric of indigenous peoples, i.e. research on their arguments for nature preservation and claims they use to defend their position. Furthermore, this thesis shall research indigenous perspectives on power relations. The method utilized in this research is Critical Discourse Analysis by Dr. Norman Fairclough, and the focus will be on environmental and power discourses constructed in media texts by indigenous peoples. Research questions are:

1. What kind of environmental discourses are constructed in the media texts written by the indigenous peoples?
2. What kind of power discourses are constructed in the media text written by the indigenous peoples?

⁶ Andersson, *Lakotat: Kotkan Ja Biisonin Kansa* (Helsinki: Suomalaisen Kirjallisuuden Seura, 2009), 292–293.

⁷ Ibid., 293–295.

⁸ See on American environmentalism John McCormick, *Reclaiming Paradise: The Global Environmental Movement* (Bloomington: Indiana University Press, 1991), ix.

3. For which purposes environmental and power discourses are used in the media texts?
4. In which socio-cultural contexts these discourses are connected to?

The research material of this thesis consists of articles that were published on the web pages of *Indian Country Today* and whose topic is either Dakota Access Pipeline project or Stand with Standing Rock environmental movement. The research material includes 46 news articles that were published between August 2016 and February 2019.

This research project is based on qualitative methods and especially on Critical Discourse Analysis introduced by Norman Fairclough. This method was chosen for this research project because it is created for the research of media texts and especially for the research of discourses. The analysis begins with an identification of themes presented in articles, and then the textual content is studied carefully in order to find the conventions according to which events, actors and patients are represented. The analysis is based on grammatical constructions and semantics used in texts, which ultimately construct the representations of power and ideology related to environmental matters. Finally, the results of this research are considered in the context of the society. The research will provide an analysis on consequences of media discourses, i.e. what effects these discourses have on individual agents and, in general, on the society.

So far, only few research projects that focus on the perspective of indigenous peoples seem to utilize Discourse Analysis as a research method. Dr. Ardis Eschenberg utilized discourse analysis in a linguistic research project on articles in Omaha language. Dr. Casey Ryan Kelly has conducted a research project on the rhetoric of Red Power movement, and Dr. Lisa Wexler has analysed texts of the indigenous youth living in Alaska. Her aim was to explore, firstly, the youth's self-perception, and secondly, their opinions on the family and their community. This research project was one part of the comprehensive research program, which aimed at providing information on the indigenous youth and help preventing youth suicides in Alaska.

More often researchers have focused on indigenous representations produced by the American majority. For instance, Dr. Jason A. Heppler conducted a research project on the significance of indigenous representations in the media for the indigenous activism in the '60s and '70s, and Dr. Casey Kelly has researched indigenous representations on news media and on popular culture. Dr. Laura Landertinger researched colonialist discourses constructed by Canadian news media, and how these representations create an image according to which the custody of indigenous children is still considered acceptable. Moreover, Anita Hemmilä has conducted a discourse analysis on historical sources that describe Native American persons which, according to the modern Western perspective, belong to sexual minorities.

Media texts written by indigenous journalists and media personalities seem to be a rare choice for a research material. Furthermore, Critical Discourse Analysis has not been used often in the context of indigenous studies. The aim of this study is to enhance knowledge on worldviews and ideas of the Oceti Sakowin people, on the structures of their communities, and on indigenous perspectives on power relations as well as their rhetoric concerning nature and its conservation. Furthermore, this study shall explore Stand with Standing Rock movement and its significance for indigenous identity. Dakota Access Pipeline project has provided a channel for indigenous peoples to express their opinions, and the environmental movement acts as a forum for their empowerment and resilience.

For the purpose of contextualization of the events in Standing Rock, this thesis will discuss various aspects of the Oceti Sakowin culture and history. Special emphasis will be given, firstly, to the environmental struggle in North and South Dakota during the Pick-Sloan program in which dams were constructed into the Missouri River. These dams caused floods on reservations, which, in turn, had devastating effects on the indigenous communities. Secondly, this thesis will discuss the relationship between the Native American Indigenous peoples and the United States in the 20th century. Thirdly, this thesis will focus on the history of Native American Indigenous activism in the 20th century. And finally, this thesis will present the events related to Stand with Standing Rock environmental movement.

The research project and its results will be presented after the contextualization of the events in Standing Rock. The chapters focusing on the research project will cover the report of the conducted research project, including considerations regarding theoretical and methodological matters as well as researcher's position as an interpret of the indigenous culture. The subsequent chapter will then present an analysis of the research material and the results of the research project. The final chapters will then draw conclusions on the results, present a synthesis and an interpretation of the historical and cultural context of the events, and discuss the purpose and consequences of media discourses. And finally, the last chapter will present implications for future research on this topic.

2 Context

Native American Indigenous culture is based on a completely different perspective towards life compared to modern Western culture. For instance, in Native American Indigenous tradition, the history is perceived as experiences, not events⁹. Relationships play a significant role in Native American Indigenous reality¹⁰. Donald Fixico states that indigenous peoples are able to change and adapt to the

⁹ Donald L. Fixico, *Call for Change: The Medicine Way of American Indian History, Ethos, and Reality* (Lincoln: University of Nebraska Press, 2013), 2.

¹⁰ Ibid., 3.

prevailing circumstances, and they have had this character even prior to the first contact with the Europeans. This character has helped them to survive in extreme circumstances and live in harmony with the nature.¹¹ On the other hand, living in the mainstream U.S. society and simultaneously maintaining Native American Indigenous identity might pose a challenge for persons who wish to cherish Native American Indigenous values¹². Following subchapters illustrate the context of the Stand with Standing Rock environmental movement. By exploring the history of Native American Indigenous peoples and particularly the history of the Oceti Sakowin one can better evaluate the significance of the current protests and legal battle for the Native American Indigenous community. Following subchapters shall focus, firstly, on history of environmental struggles in North and South Dakota, secondly, on the history of relationships between indigenous peoples and the U.S. government, and, thirdly, on the history of Native American Indigenous activism. The last subchapter of this section will outline the events leading to the protests in Standing Rock.

2.1 Standing Rock and Pick-Sloan Program

Native American nations are sovereign governments according to the United States Constitution. The relationship between the U.S. government and Native American indigenous tribes is comparable to a trustee and a beneficiary, i.e. the U.S. government should manage the lands and natural resources of reservations in a manner that is most beneficial to the tribes.¹³ Nevertheless, the relationship between Native American indigenous peoples and the U.S. government has always been problematic, and debates on land ownership and on usufructuary rights continue even on the present day.¹⁴ If there is no treaty that explicitly prevents the U.S. government to make decisions concerning a certain area, Native American indigenous peoples need to appeal on several authorities in order to reverse policies and decisions. If such legal documents do not exist, the fate of a case depends ultimately on the goodwill of the politicians and authorities. The Oceti Sakowin have experienced some major environmental catastrophes due to the actions of the U.S. government. One of these was the Pick-Sloan Plan and its consequences in North and South Dakota. This subchapter shall discuss, firstly, the environmental character of this area and its significance for the Oceti Sakowin, and especially for the Standing Rock tribe, and, secondly, the consequences of the construction projects for the tribes.

¹¹ Donald L. Fixico, *Call for Change: The Medicine Way of American Indian History, Ethos, and Reality* (Lincoln: University of Nebraska Press, 2013), 6.

¹² Ibid. 36.

¹³ "An Introduction to Indian Nations in the United States," Indigenous Governance Database, 4, accessed October 25, 2017, <https://nnigovernance.arizona.edu/introduction-indian-nations-united-states>.

¹⁴ George Roth, "Recognition," in *Handbook of North American Indians, Vol. 2, Indians in Contemporary Society*, ed. Garrick A. Bailey, Vol. 2 (Washington: Smithsonian Institution, 2008), 115.

Standing Rock was established in the end of the 19th century on the west bank of the Missouri River. The state border of North and South Dakota crosses the reservation. Standing Rock was reserved to Hunkpapa and Blackfeet bands of Lakota and the Upper and Lower Yanktonai bands of Nakota. Some Blackfeet bands reside in Cheyenne River together with Miniconjous, Sans Arcs, and Two Kettles. In addition, some Lower Yanktonai bands of Nakota reside in Crow Creek on the east bank of the Missouri River. Cheyenne River and Crow Creek are located south from Standing Rock.¹⁵

Before the Pick-Sloan project was launched in 1955, the Oceti Sakowin were living in deprived circumstances. The families were big and the houses available had usually only one or two rooms. In addition, houses usually lacked plumbing and electricity, and adequate water supplies did not exist near the communities. I.e. adults had to fetch drinking water and domestic waters from a long distance. Michael Lawson notes that, for instance, in 1955 only 13% of the houses in Standing Rock had plumbing and electricity. Since the indigenous peoples lived with the extended family, in the average house each room was shared by five persons.¹⁶ Unemployment was common and those who had a job usually worked as cowboys, farmers, construction workers, or in nonsupervisory positions with the Bureau of Indian Affairs. Some were hired for various odd jobs during the summertime. A lack of permanent job opportunities resulted low income rates among the Oceti Sakowin.¹⁷

Lawson states that the tribes living in Standing Rock, Cheyenne River, and Lower Brule were successful in establishing livestock enterprises in the beginning of the '50s. They purchased cattle and farm equipment and loaned them for tribe members. Nevertheless, the limited natural resources made it impossible to increase the size of the herds, and small herds were commercially unsuccessful. Furthermore, indigenous communities were not yet familiar with the modern methods of farming and they used old-fashioned equipment. With these premises, they were unable to compete with the more modern farms.¹⁸

The events leading to an environmental catastrophe began in 1944 when the federal government approved two construction projects that had a considerable impact on reservations. According to the plan, five dams were constructed along the Missouri River to control the floods. Moreover, reservoirs as well as irrigation projects were constructed along the rivers' tributaries. The affected tribes were not informed on these projects until 1947 when it was too late for them to oppose the

¹⁵ Michael L. Lawson, *Dammed Indians Revisited: The Continuing History of the Pick-Sloan Plan and the Missouri River Sioux* (Pierre: South Dakota State Historical Society Press, 2009), 28.

¹⁶ *Ibid.*, 35.

¹⁷ *Ibid.*, 36.

¹⁸ *Ibid.*, 38.

plans, or otherwise express opinions on them.¹⁹ Michael Lawson claims that at least some tribal leaders were aware of the projects and they genuinely believed that those would create better facilities and recreational opportunities for the tribes. It seems that, at that point, nobody could imagine the potential damages which then became reality.²⁰

In fact, the beginning of the project and the events in Fort Berthold were very similar compared to the situation in Standing Rock some sixty years later when the Dakota Access Pipeline was constructed. Lawson notes that U.S. Army of Corps' Engineers arrived in Fort Berthold in April 1946 without prior notice and then they began to construct Garrison Dam. Construction work would lead to floods that would destroy 94% of the agricultural lands in Fort Berthold and force 80% of the population to leave their homes. Furthermore, U.S. Army of Corps' Engineers altered the specifications during the construction work in order to protect the city of Williston, North Dakota, from the floods. They did not have a proper authorization for this measure and nor did they care about the fate of the indigenous community. When they tried to confiscate land for the altered construction work by the right of eminent, Fort Berthold tribe organized a demonstration in Washington D.C. The tribe pleaded claims under Fort Laramie Treaty of 1851, according to which tribal lands cannot be taken from the tribes without the consent of the Congress and the affected tribe, and their protest was successful. The Congress halted the construction work until the tribe had received a suitable settlement.²¹

The construction of the Oahe Dam began in August 1948. The Acting Commissioner of Indian Affairs, William Zimmerman Jr. wanted to avoid repeating past mistakes and problems. He pleaded that U.S. Army of Corps' Engineers refrain from condemning tribal lands in Standing Rock and in Cheyenne River, and that they would co-operate with the Bureau of Indian Affairs to ensure a more humane procedure. Furthermore, Senator Chan Gurney and Representative Francis Case introduced a protective law in Congress. This legislation proposed guidelines for negotiations with the tribes and urged to above mentioned co-operation with the federal agencies. The Act of September 30 was enacted in 1950. During the legislation process it was publicly acknowledged that neither Standing Rock nor Cheyenne River would benefit from the construction project as much as communities located south from the Oahe Dam. These communities include Crow Creek, Lower Brule, Pine Ridge, Rosebud, Yankton, and Santee reservations.²²

¹⁹ Dennis M. Christafferson, "Sioux, 1930–2000," in *Handbook of North American Indians: Plains, Part 2.*, ed. Raymond J. DeMallie, Vol. 13 (Washington D.C.: Smithsonian Institution, 2001), 823.

²⁰ Lawson, *Dammed Indians Revisited: The Continuing History of the Pick-Sloan Plan and the Missouri River Sioux* (Pierre: South Dakota State Historical Society Press, 2009), 52.

²¹ *Ibid.*, 52–53.

²² *Ibid.*, 93.

According to Michael Lawson, the negotiations followed a similar pattern. Both federal agencies as well as the tribes presented diverging estimates of the damage. The Bureau of Indian Affairs aimed at a compromise with the tribe while U.S. Army of Corps' Engineers refused to make any concessions and ultimately failed to reach any satisfactory consensus with any of the tribes. Lawson claims that the atmosphere during the negotiations was hostile and that the Bureau of Indian Affairs, in fact, tried to prevent the tribes from hiring competent legal advisors.²³ For instance, Standing Rock ultimately hired attorney James E. Curry as their legal advisor. Unfortunately, he was a critic of the Bureau of Indian Affairs and in bad terms with the then Commissioner Dillon Seymour Myer. The Standing Rock tribe wanted to hire James E. Curry for the entire four-years' period of the extended negotiations to ensure that the attorney would act according to the tribe's needs regardless of the conjunctures in the Interior Department politics. Myer demanded that the attorneys must gain his favour and approved only one-year contracts. Standing Rock complained this decision to Interior Secretary Oscar Chapman. It took almost eight months and another demonstration in Washington D.C. until Chapman overruled Myer and approved the Standing Rock tribe's contract with James E. Curry. Mr. Myer's next move was to limit the amount of money available for the Standing Rock tribe's legal assistance to \$300 per year. Tribal leaders had to return to Washington D.C. in order to get this new restriction overruled.²⁴

The negotiations for the appraisal of the indigenous land began in the spring of 1951. In the initial negotiations the members of the Standing Rock tribe questioned the necessity of the Pick-Sloan project and asked what consequences they could expect if they refused to move from their land. The representatives on the Bureau of Indian Affairs and U.S. Army of Corps' Engineers were not prepared for their questions and the tribe was not impressed on their arguments. Finally, the appraisers estimated that the damages to indigenous property would amount to \$1,320,000 for Standing Rock and to \$1,605,410 for Cheyenne River. Both tribes investigated the estimates and stated that those were much too low. The tribes demanded a review of the appraisal and the estimates were eventually corrected.²⁵ Nevertheless, the negotiations between the Standing Rock tribe, the Bureau of Indian Affairs, and U.S. Army of Corps' Engineers continued with several twists and turns before the tribe received a final settlement in January 1960. The final amount was \$12,346,553.²⁶ Moreover, Standing Rock received additional \$135,000 for their negotiation expenses²⁷. Nevertheless, while waiting the

²³ Michael L. Lawson, *Dammed Indians Revisited: The Continuing History of the Pick-Sloan Plan and the Missouri River Sioux* (Pierre: South Dakota State Historical Society Press, 2009), 93.

²⁴ *Ibid.*, 95, 97–99.

²⁵ *Ibid.*, 101–103.

²⁶ *Ibid.*, 154, 181, 182

²⁷ *Ibid.*, 156.

settlements, the tribe experienced a serious economic catastrophe. When the funds were eventually delivered, U.S. Army of Corps' Engineers gave an immediate eviction order for those families who lived within the Oahe reservoir taking area. Later these families learned that the eviction date was an arbitrary one, and they could have had stayed in their homes until summer.²⁸

Lawson claims that, in general, the attorneys that ultimately were provided to assist the tribes during the negotiations for appraisals found themselves in a very challenging situation in which they did not have authority to act in favour of the tribes. Consequently, all the tribes observed after the negotiations that their justified demands had been neglected and they had not received enough compensation for their losses.²⁹ Furthermore, the termination politics of the era made the situation even more problematic. Both the Congress and the Bureau of Indian Affairs were willing to make settlements for the tribes because they hoped that payments would have made indigenous communities self-sufficient. On the other hand, because the Bureau of Indian Affairs was eventually to be terminated, the politicians were not interested in indigenous affairs anymore. These attitudes created obstacles and delays when the tribes struggled for a just compensation for the damages.³⁰ Moreover, the settlements did not cover the problems caused by the inflation, and only those families who managed to buy land directly from their tribe, or to find a house within the indigenous community, were able to tackle these problems.³¹

2.1.1 Environmental Changes Have an Impact on Wellbeing of Indigenous Communities

The dams caused floods that destroyed fertile bottomlands of the reservations. Standing Rock and Cheyenne River suffered most damages, the lost areas were 56.000 and 104.000 acres, respectively. Entire communities had to be relocated after the floods, and some families had to move twice because they were directed at first to areas that would suffer from floods later.³² For instance, Standing Rock had to relocate 25% of its population to the uplands area that had many disadvantages compared to the bottomlands.³³

The floods caused the loss of bottomland grazing area and wooded bottomlands, and this had severe consequences both for the traditional lifestyle of the Oceti Sakowin and for the indigenous

²⁸ Michael L. Lawson, *Dammed Indians Revisited: The Continuing History of the Pick-Sloan Plan and the Missouri River Sioux* (Pierre: South Dakota State Historical Society Press, 2009), 181–182.

²⁹ *Ibid.*, 95.

³⁰ *Ibid.*, 101.

³¹ *Ibid.*, 188.

³² Christafferson, "Sioux, 1930–2000," in *Handbook of North American Indians: Plains, Part 2.*, ed. DeMallie, Vol. 13 (Washington D.C.: Smithsonian Institution, 2001), 823.

³³ Lawson, *Dammed Indians Revisited: The Continuing History of the Pick-Sloan Plan and the Missouri River Sioux* (Pierre: South Dakota State Historical Society Press, 2009), 48.

livestock industries. In fact, the floods ended ranching almost completely in Standing Rock and in Cheyenne River. Michael Lawson notes that with the loss of wooded bottomlands the indigenous peoples lost their resources of fuel and lumber. In addition, the gathering and selling wood had secured a small amount of extra income for indigenous families before the floods. The woods had also provided shelter and feeding ground for wildlife, and hunting was an important means of livelihood and recreation for the Oceti Sakowin.³⁴

In general, a permanent lack of resources existed in indigenous communities, and the situation worsened when the tribes experienced the floods that were a consequence of the dam construction projects. Lawson states that the Oceti Sakowin lacked adequate training and investment capital, and federal policies concerning indigenous land prevented the communities from using their remaining resources effectively. The communities survived by acting according to their traditional customs and values, i.e. individual wealth was less appreciated, and families tended to share their properties in the community.³⁵ Lawson emphasizes the fact that the environmental catastrophe and the resulting relocation had severe consequences on social, economic, political, and religious life of the established tribal groups. The Oceti Sakowin has a sacred attachment to their homelands, and therefore, the relocation was a hard experience and caused strong feelings of anxiety, insecurity, and resentment among the tribe members.³⁶

2.1.2 Social and Economic Programs for Indigenous Communities

The Congress allocated a substantial proportion of the settlements provided for tribes to social and economic programs which aimed at supporting self-sufficiency in indigenous communities. Certain restrictions applied for the use of this money but, in general, the tribes managed independently the use of this money.³⁷ The tribal committees designed programs, for instance, for farming and ranching, for education, for community development, and for business and industrial development. The largest sum from the rehabilitation funds was allocated for family improvement programs which aimed at improving the living conditions of deprived families. For instance, the Standing Rock tribe spent nearly \$4 million for this purpose and offered \$650 for every member of the tribe regardless of their location.³⁸ Usually tribe members made housing improvements with the acquired money. Vehicles, livestock, farm and ranch equipment, and clothing and other personal items were purchased as well.

³⁴ Michael L. Lawson, *Dammed Indians Revisited: The Continuing History of the Pick-Sloan Plan and the Missouri River Sioux* (Pierre: South Dakota State Historical Society Press, 2009), 49–50.

³⁵ *Ibid.*, 36–37.

³⁶ *Ibid.*, 51–52.

³⁷ *Ibid.*, 195.

³⁸ *Ibid.*, 196.

The amount of money available for improving housing conditions was limited but for the first time some families could purchase or lease a home with electricity and indoor plumbing. Some were able to buy their first car or pay their longstanding debts.³⁹

The second-largest sum from the rehabilitation money was used to establish farming and ranching programs. Most ambitious in this field was Cheyenne River. Standing Rock put some effort to a similar program but, in general, the herds and the amount of invested money were small. Seven years later 34 from the initial 51 ranches were still in operation, and only three of them managed to earn an annual net income that exceeded \$2,000. Only a half of the ranches made profit at all, and the average profit was only \$707 per year.⁴⁰

Rehabilitation expenditures were used for education programs as well. The educational program in Standing Rock provided low-interest loans and grants for students enrolled in college or in vocational school. By 1963, i.e. three years after establishing this program, 140 tribe members had received financial assistance from these funds, and 11 tribe members had graduated. In 1973, a community college was opened in Fort Yates. It continues to educate children even today.⁴¹

By the end of the '60s, tribal rehabilitation programs were supplemented with federal programs, which were extended for indigenous peoples during the Kennedy and Johnson administrations. Despite all these efforts, unemployment and poverty were persistent. In 1971, almost 80% of the families living in Standing Rock reported incomes below the poverty line. In 1972, almost half of the houses in Standing Rock were still classified as substandard even if new houses had been constructed on the area as well.⁴²

In 1984, the Fort Berthold tribe expressed its grievances regarding the Garrison Dam at the public hearing of the Garrison Diversion Unit Commission. Initially, the commission had been established to review the Garrison Diversion Unit, which was the irrigation and water supply project in North Dakota. This hearing of the public led to a series of events that ultimately provided additional compensation for the Oceti Sakowin. The Joint Tribal Advisory Committee, which was formed in May 1985, continued the investigations on the effects of the Pick-Sloan Project, and, eventually, the General Accounting Office, which was later renamed as the Government Accountability Office, gave a statement on this matter. Based on the recommendations of the General Accounting Office, the Congress made a proposal to establish a recovery trust fund for the Fort Berthold tribe and the Standing Rock tribe. Representative Byron L. Dorgan introduced the bill in the House of Representatives

³⁹ Michael L. Lawson, *Dammed Indians Revisited: The Continuing History of the Pick-Sloan Plan and the Missouri River Sioux* (Pierre: South Dakota State Historical Society Press, 2009), 197.

⁴⁰ Ibid., 197–199.

⁴¹ Ibid., 199.

⁴² Ibid., 206–207.

on May 21, 1991.⁴³ President George H. W. Bush signed the bill into law on October 30, 1992. The Three Affiliated Tribes of Fort Berthold and Standing Rock Sioux Tribe Equitable Compensation Act authorized the establishment of the recovery trust fund with assets of \$149,2 million for the Three Affiliated Tribes and \$90,6 million for the Standing Rock tribe.⁴⁴ Furthermore, it ordered that the value of the interest, i.e. the profit of the fund, must be used for beneficial programs that are targeted for all the residents in Standing Rock. Similar funds have been established during the '90s for five more indigenous communities living on the banks of the Missouri River.⁴⁵

2.2 Relationship between Indigenous Peoples and U.S. Government

As mentioned above, the relationship between the U.S. government and Native American Indigenous communities has been and still is problematic. Certain trends and events in history explain the complexity of this relationship and the current events in Standing Rock. This subchapter shall discuss the politics of the U.S. government towards Native American Indigenous communities in the 20th century. Furthermore, this chapter shall discuss some particular features of the relationship between the U.S. government and the indigenous communities.

Political atmosphere and attitudes towards indigenous peoples have been changing constantly over the course of time. Persistent poverty, social problems, and dependent position of the Native American Indigenous peoples were the factors that motivated activists, lobbyists, and politicians to seek means of support for indigenous peoples. On the other hand, together with this support emerged a fear of assimilation politics among the most traditional indigenous communities. And when the conjuncture of the politics changed once again, the treatment of the indigenous communities changed accordingly, and politicians hoped that these dependent communities would find means of livelihood on their own. This was, and still is, extremely hard, especially for communities who are established on the most deprived areas of the United States.

These conjunctures of politics led to conflicts in the '70s. Native American Indigenous communities were disappointed on the government politics and developed a permanent mistrust towards the U.S. government. Taking this history into account, it is very interesting to observe how the inter-group relationships between the Native American Indigenous communities and the American majority develop in the future.

⁴³ Michael L. Lawson, *Dammed Indians Revisited: The Continuing History of the Pick-Sloan Plan and the Missouri River Sioux* (Pierre: South Dakota State Historical Society Press, 2009), 255, 258, 264–265.

⁴⁴ *Ibid.*, 266.

⁴⁵ *Ibid.*, 268.

2.2.1 Politics of U.S. Government towards Indigenous Peoples from 1900 to 1980

The relationship between the U.S. government and Native American Indigenous peoples was bitter in the beginning of the 20th century. The Dawes Severalty Act had been passed in the Congress 1887. Its ultimate purpose was to break Native American Indigenous resistance and communal strength by abolishing reservations and introducing private property ownership for Native American Indigenous peoples. An allotment of 160 acres of reservation land was promised to each Native American Indigenous adult, and these lands should have been held in trust by the federal government for 25 years.⁴⁶ Behind this procedure was a forced assimilation policy, which continued to determine politics until the beginning of the 1920s. Nevertheless, this policy was challenged after several studies had revealed that the land allotment program increased poverty and depravity among Native American peoples. Eventually, forced assimilation policies were cancelled and a new legislation was passed during the New Deal era.⁴⁷ The new politics towards indigenous peoples is often referred as the Indian New Deal.

The goal of the new policy was to support cultural pluralism and preserve Native American Indigenous heritage. Mr. John Collier was an activist supporting Native American Indigenous affairs and autonomy, and in the '30s he became one of the most active and reputed persons in the field of indigenous affairs. He was the executive secretary of American Indian Defense Association. This organization promoted, for instance, indigenous peoples' cultural rights and indigenous control over natural resources on tribally owned land. After his nomination for the Commissioner of Indian Affairs, he introduced the first version of the Indian Reorganization Act to the Congress. His original plan was rejected by both the Congress and even by some of the Native American Indigenous peoples. Nevertheless, the modified bill was signed in 1934. The new legislation put an end to the policies enabled by the Dawes Severalty Act. The allotment program was abolished, and Native American Indigenous peoples were given a new chance to purchase lands. A credit fund was created for this purpose. Lawrence Kelly notes that Indian Reorganization Act supported especially tribes which had maintained cohesion and whose lands were essentially intact.⁴⁸ From the perspective of the U.S. government and the American majority, Indian Reorganization Act was a sign of a more tolerant atmosphere towards Native American Indigenous peoples in the American society. Collier's ultimate mission was to assimilate indigenous peoples to the American society. Besides political activity, he made

⁴⁶ Arrell M. Gibson, "Indian Land Transfers," in *Handbook of North American Indians, Vol. 4, History of Indian-White Relations*, eds. Ray and Washburn, Vol. 4 (Washington: Smithsonian Institution, 1988) 226–227.

⁴⁷ Lawrence C. Kelly, "United States Indian Policies, 1900–1980," in *Handbook of North American Indians, Vol. 4, History of Indian-White Relations*, eds. Arthur J. Ray and Wilcomb E. Washburn, Vol. 4 (Washington: Smithsonian Institution, 1988) 66.

⁴⁸ *Ibid.*, 70, 72–73.

arrangements to find job opportunities for Native American Indigenous persons via the Civilian Conservation Corps, The Farm Security Administration, and the Public Work Administration.⁴⁹

Despite the era of cultural pluralism in the '30s, the Senate Indian Affairs Committee tried to repeal Indian Reorganization Act because it was critical towards the bureaucracy. According to the committee, the policies should have supported persons with Native American Indigenous background into full and equal participation in the American society rather than highlighting their special status.⁵⁰

The politics took another direction after the World War II. Funds for supporting Native American Indigenous peoples were cut, and Mr. John Collier resigned in January 1945.⁵¹ The control over Indian affairs passed in most cases to the Congress during the years 1945–1950 because Collier's successors were not active in their office. Kelly claims that the awards paid for persons with Native American Indigenous background created wealth among them, and this was later used as an argument both for ending a federal supervision over Native American Indigenous peoples and for termination policies that emerged in the '50s.⁵²

It seems that the U.S. government might have wanted to compensate some financial losses for Native American Indigenous peoples despite the dire economic situation after the World War II. Indian Claims Commission Act was enacted in 1946. Its purpose was to support Native American Indigenous restitution work. The Indian Claims Commission aimed at settling claims filed by Native American tribes before August 31, 1951. These claims dated back to 19th century, and from 1950 to 1969 over a half of the cases were ruled in favour of Native American Indigenous peoples, and awards totalling over \$300 million were paid for them.⁵³ The commission worked until 1978, and the remaining unsolved cases were transferred to the Court of Claims, which had solved the claims of Native American Indigenous tribes simultaneously with the Indian Claims Commission as well. However, the Court of Claims is specialized only in cases that violate the Constitution, the laws or treaties of the United States, or Executive orders of the President. Furthermore, in 1982, Indian Claims Limitation Act gave the Court of Claims a possibility to legally dismiss most claims filed before 1966.⁵⁴

⁴⁹ Alvin M. Josephy Jr., "Modern America and the Indian," in *Indians in American History: An Introduction*, eds. Frederick E. Hoxie and Peter Iverson (Somerset: John Wiley & Sons, 1997), 202–203.

⁵⁰ Kelly, "United States Indian Policies, 1900–1980," in *Handbook of North American Indians, Vol. 4, History of Indian-White Relations*, eds. Ray and Washburn, Vol. 4 (Washington: Smithsonian Institution, 1988), 74.

⁵¹ Josephy Jr., "Modern America and the Indian," in *Indians in American History: An Introduction*, eds. Hoxie and Iverson (Somerset: John Wiley & Sons, 1997), 205.

⁵² Kelly, "United States Indian Policies, 1900–1980," in *Handbook of North American Indians, Vol. 4, History of Indian-White Relations*, eds. Ray and Washburn, Vol. 4 (Washington: Smithsonian Institution, 1988), 74.

⁵³ Ibid.

⁵⁴ Gibson, "Indian Land Transfers," in *Handbook of North American Indians, Vol. 4, History of Indian-White Relations*, eds. Ray and Washburn, Vol. 4 (Washington: Smithsonian Institution, 1988), 227–28.

Despite the Indian Claims Commission Act, the political conjunctures of the '50s did not favour indigenous people. Another backlash in indigenous affairs was the termination of the national trusteeship for Native American Indigenous peoples. As a consequence, any American could claim lands that belonged to indigenous peoples. Arrell M. Gibson estimates that circa 1.8 million acres of Native American Indigenous land were transferred to non-indigenous landowners from 1953 to 1957. A new relocation program was introduced by the new Commissioner of Indian Affairs, Mr. Dillon S. Myer. Unemployment rates increased after the World War II soldiers returned to their homeland, and Myer supported a policy according to which young indigenous persons were persuaded to move into urban areas. Furthermore, he shifted the authority and powers of the reservation superintendents to more distant regional institutions and diminished the possibilities of indigenous persons to access to the credit funds administrated by the Bureau of Indian Affairs. He encouraged indigenous persons to take loans from private banks and mortgage their trust and allotments as a collateral security.⁵⁵

The demands for ending federal supervision over Native American Indigenous peoples resulted a bill, the Public Law 280, and a resolution that shifted the jurisdiction over indigenous affairs from the federal government to the states in 1953. President Dwight Eisenhower demanded a consultation for Native American Indigenous tribes to clear their status, but this consultation was never provided for the tribes. This change of policy and the new legislation were implemented at first to all Native American Indigenous peoples residing in California, Florida, Iowa, Minnesota, Nebraska, Nevada, New York, Oregon, Texas, and Wisconsin. In addition, Klamath, Menominee, Flathead, and Osage tribes as well as Potawatomi tribes residing in Kansas and Nebraska, Southern Paiute-Utes of Utah, and the Turtle Mountain Band of Chippewa residing in North Dakota were affected by this new policy. In the second phase, the new policy was implemented to Alabama, Koasati, Wyandot, Peoria, and Ottawa tribes.⁵⁶ Alvin M. Josephy Jr. claims that the federal involvement in indigenous affairs was terminated because it was against the tenets of American liberalism and did not fit into the new Cold War politics that supported conformity.⁵⁷

The termination of the federal supervision ended federal treaty and trust obligations and the delivery of special services for indigenous persons. Members of the terminated tribes had to assimilate to the American society, and the resources of these tribes became a private property. The

⁵⁵ Arrell M. Gibson, "Indian Land Transfers," in *Handbook of North American Indians, Vol. 4, History of Indian-White Relations*, eds. Arthur J. Ray and Wilcomb E. Washburn, Vol. 4 (Washington: Smithsonian Institution, 1988), 227.

⁵⁶ Kelly, "United States Indian Policies, 1900–1980," in *Handbook of North American Indians, Vol. 4, History of Indian-White Relations*, eds. Ray and Washburn, Vol. 4 (Washington: Smithsonian Institution, 1988), 76.

⁵⁷ Josephy Jr., "Modern America and the Indian," in *Indians in American History: An Introduction*, eds. Hoxie and Iversen (Somerset: John Wiley & Sons, 1997), 206.

trusteeship of the tribal property was shifted to private banks, whose employees were incompetent to work for the benefit of the Native American Indigenous tribes. Consequently, the resources of the indigenous peoples were subjected to fraud and robbery, and the affected tribes faced economic disaster, which, in turn, burdened the economy of the states in which these tribes resided.⁵⁸

Alvin M. Josephy Jr. notes that termination policies clarified and strengthened the agenda of the National Congress of American Indians. This institution was founded in 1944 and located in Washington D.C. During the termination years it promoted action towards federal politics targeted on indigenous peoples. Organizations without particular indigenous background opposed termination policies as well, and Alvin M. Josephy Jr. claims that the resistance created a new awareness on indigenous matters among the American majority, and the most liberal activists acknowledged that assimilation is not the only or the best policy towards Native American Indigenous culture. Instead, Native American Indigenous peoples must have an opportunity to cherish their own culture.⁵⁹

Finally, the disastrous consequences of the termination policies forced the Eisenhower administration to slow down these policies from 1958 onwards. Officially termination policies remained as an optional measure for the states and the federal government. Alvin M. Josephy Jr. claims that, in practice, termination policies were not implemented after 1958.⁶⁰ Lawrence Kelly holds another view on the history and notes that termination policies slowed down in the '60s and ended in the '70s. President Richard Nixon requested a repudiation of the termination policies towards Native American Indigenous peoples in 1970.⁶¹

The era of the termination severely damaged Native American Indigenous communities and created a deep mistrust among indigenous groups towards any federal initiatives, actions, or programs. This tendency was clearly present when the Kennedy and Johnson administrations tried to revive the spirit of the Indian Reorganization Act. The goal was to support Native American Indigenous communities' economic situation by reservation-based private industries that would have created jobs for indigenous people. In addition, the politicians persuaded that indigenous lands and resources should be leased to non-indigenous development and energy corporations. These initiatives were unsuccessful. Indigenous communities feared that a long-term leasing would be another form

⁵⁸ Alvin M. Josephy Jr., "Modern America and the Indian," in *Indians in American History: An Introduction*, eds. Frederick E. Hoxie and Peter Iverson (Somerset: John Wiley & Sons, 1997). 206.

⁵⁹ *Ibid.*, 207–208.

⁶⁰ *Ibid.*, 208.

⁶¹ Kelly, "United States Indian Policies, 1900–1980," in *Handbook of North American Indians, Vol. 4, History of Indian-White Relations*, eds. Ray and Washburn, Vol. 4 (Washington: Smithsonian Institution, 1988), 78.

of termination policy, and for those who accepted this offer, it proved to be a mistake. These deals were financially and in terms of environmental preservation disastrous for indigenous communities.⁶²

The new political activism among Native American Indigenous peoples as well as the emergence of the Red Power movement and its consequences will be discussed in the following chapters. At this point it is important to note that the political conjunctures of the '60s and the '70s changed fundamentally the atmosphere in the American society. The cumulative effects of the reactions against Vietnam War and civil activity in general created a new, more tolerant atmosphere towards pluralism in the United States. Alvin M. Josephy, Jr. remarks that later the attitudes in the society changed again but after the '60s there has always been groups of Americans who are willing to question the traits of ethnocentricity in the American culture.⁶³

2.2.2 Indigenous Perspectives on Relationship with U.S. Government

The history of the reservations is in many respects parallel and intertwined. Still, there are differences between areas and the tribes. James Fenelon notes that the Standing Rock tribe has always managed to preserve a very strong traditional Lakota identity despite the U.S. government's attempts to assimilate indigenous peoples. The reason for a successful resistance is effective adaptation tactics. In addition, the Oceti Sakowin continued to practice their culture in secret when the U.S. government considered Native American Indigenous ceremonies illegal.⁶⁴ This subchapter shall discuss the consequences of federal policies in the homelands of the Oceti Sakowin.

The reception of the Indian Reorganization Act of 1934 was mixed among the Oceti Sakowin. Some bands rejected it, whilst others adapted it, either in whole or in part.⁶⁵ The act urged that representative governments should be formed for each reservation, and especially traditionalists opposed these reforms⁶⁶. Among the Oceti Sakowin tribes, Standing Rock, Cheyenne River, Lower Brule, Rosebud, and Pine Ridge decided to draft constitutions and establish an administrative structure according to the act. Crow Creek rejected the act, and Yankton accepted the law but never established an administrative structure according to it.⁶⁷ Michael Lawson remarks that the proposed administrative structure was unfamiliar to the Oceti Sakowin. Traditionally decisions were made in smaller units

⁶² Josephy Jr., "Modern America and the Indian," in *Indians in American History: An Introduction*, eds. Hoxie and Iverson (Somerset: John Wiley & Sons, 1997), 208–210.

⁶³ *Ibid.*, 213.

⁶⁴ James V. Fenelon, "From Peripheral Domination to Internal Colonialism: Socio-Political Change of the Lakota on Standing Rock," *Journal of World-Systems Research* 3, no. 2 (1997), 284.

⁶⁵ Christafferson, "Sioux, 1930–2000," in *Handbook of North American Indians: Plains, Part 2.*, ed. DeMallie, Vol. 13 (Washington D.C.: Smithsonian Institution, 2001), 821.

⁶⁶ *Ibid.*, 829.

⁶⁷ Lawson, *Dammed Indians Revisited: The Continuing History of the Pick-Sloan Plan and the Missouri River Sioux* (Pierre: South Dakota State Historical Society Press, 2009), 32.

than what this new structure proposed. And, therefore, an intense factionalism soon developed in these new tribal governments. This particularity is characteristic for the tribal administration of the Oceti Sakowin even today.⁶⁸

On the other hand, these new representative governments were powerless since the decisions needed an approval of the Bureau of Indian Affairs before they could be executed⁶⁹. Mr. John Collier's role as the architect behind the Indian Reorganization Act might have been another reason why some indigenous communities rejected it. Bradley Shreve notes that, before earning his position as the Commissioner of Indian Affairs, Mr. Collier acted as an executive secretary of the American Indian Defense Association, and his opinions challenged the established practices of that time in the Bureau of Indian Affairs.⁷⁰ I.e. even if his motivations might have been sincere, he managed to make enemies as well. Moreover, some tribes considered any federal initiative as a threat to their sovereignty and categorically rejected them all.⁷¹

Native American Indigenous peoples served in the military during the World War II, and in 1942 the U.S. Army needed 340,000 acres of land on Pine Ridge Reservation, and the tribes promised to lease the lands. Nevertheless, some of the families were forced to sell their lands, and their losses were not compensated until 1956. According to the original agreement, the Army should have returned the leased lands to the tribe after the war, but this did not happen until 1975.⁷²

As mentioned above, the Bureau of Indian Affairs proposed a withdrawal from a particular support for federally recognized tribes in the late 40's, and termination policies continued in the next decade. The states were given the jurisdiction over reservations, and the federal government cancelled funding for judges and police operating on the reservations. Consequently, the funding of the law enforcement became a responsibility of the tribes, and since the reservations did not have adequate funding for this purpose, this development meant insecurity for indigenous peoples.⁷³ Michael Lawson states that, in general, most tribes supported the idea of self-determination. The problem was that indigenous communities were not yet self-sufficient. Due to their historical development, indigenous communities lacked economic resources to provide adequate welfare, education, and police protection. Some indigenous peoples supported the idea of a full self-government while others supported a

⁶⁸ Michael L. Lawson, *Dammed Indians Revisited: The Continuing History of the Pick-Sloan Plan and the Missouri River Sioux* (Pierre: South Dakota State Historical Society Press, 2009), 33.

⁶⁹ Christafferson, "Sioux, 1930–2000," in *Handbook of North American Indians: Plains, Part 2.*, ed. DeMallie, Vol. 13 (Washington D.C.: Smithsonian Institution, 2001), 829.

⁷⁰ Bradley G. Shreve, *Red Power Rising: The National Indian Youth Council and the Origins of Native Activism* (Norman: University of Oklahoma Press, 2014), 23–24.

⁷¹ *Ibid.*, 25.

⁷² Christafferson, "Sioux, 1930–2000," in *Handbook of North American Indians: Plains, Part 2.*, ed. DeMallie, Vol. 13 (Washington D.C.: Smithsonian Institution, 2001), 821.

⁷³ *Ibid.*, 824.

partial termination, which would have strengthened the tribal governments and secured the services for the reservations. All indigenous peoples wished to maintain their territorial sovereignty. Standing Rock supported a full self-government, but it also protested against the consolidation of the Bureau of Indian Affairs' facilities in Standing Rock and Cheyenne River. The Bureau of Indian Affairs published this consolidation plan in 1951 as a part of governments termination politics.⁷⁴

Indigenous communities' wishes to maintain self-determination were not fulfilled despite the goals of the termination politics. The U.S. government wanted that indigenous communities would be self-sufficient, but at the same time, the Public Law 280, which was enacted in 1953, granted the states an opportunity to take authority over the reservations without a consent from tribal governments.⁷⁵

In 1952, the Bureau of Indian Affairs started the Voluntary Relocation Program in order to encourage Native American Indigenous persons to move into the cities. Since many families had lost their homes in the floods and poverty was a persistent problem in reservations, many decided to move into urban areas. They were supported in finding an accommodation and a job, but they faced poverty and discrimination in the labour market as well. They were also left on their own after they once were hired, and loneliness as well as troubles of the urban life were often the reasons behind a decision to return to reservations. Among the Oceti Sakowin the amount of returnees was high; 75% of persons from Cheyenne River, 58% of persons from Rosebud, and 45% of persons from Standing Rock returned during the following decade.⁷⁶ On the other hand, those indigenous persons, who decided to stay in the cities, managed to create new networks. They cherished ideas of the new Pan-Indianism, which crossed boundaries between tribes and created a new sense of ingroup belonging among indigenous persons.⁷⁷

Termination policies were reversed in the '60s, and the success of the Civil Rights Movement and the growing Pan-Indianism as well as increased political activism empowered indigenous peoples to express their frustration caused by injustices and discrimination, and claim for equality. The federal government extended the eligibility of Native American Indigenous peoples for social programs, that originally were created for non-indigenous persons only. In addition, the Office of Economic Opportunity and the Area Redevelopment Administration (later called as the Economic Development Administration) were founded in 1964. Those funded Native American tribes without intermediaries.

⁷⁴ Lawson, *Dammed Indians Revisited: The Continuing History of the Pick-Sloan Plan and the Missouri River Sioux* (Pierre: South Dakota State Historical Society Press, 2009), 99–101.

⁷⁵ Christafferson, "Sioux, 1930–2000," in *Handbook of North American Indians: Plains, Part 2.*, ed. DeMallie, Vol. 13 (Washington D.C.: Smithsonian Institution, 2001), 824.

⁷⁶ Ibid.

⁷⁷ Ibid.

For the first time the Oceti Sakowin had more authority over federal spending on their lands. Previously the Bureau of Indian Affairs had controlled the federal spending on reservations.⁷⁸ It must be noted, however, that in practice indigenous leaders were still strongly guided by the government officials and this guidance was offered especially on important decisions. Alvin M. Josephy Jr. states that, taking the past events into account, this development was nevertheless an important step towards a congressional authorization of indigenous inclusion. In addition, as economic support was given directly for the indigenous communities, the indigenous leaders gained experience and self-confidence in managing tribal affairs.⁷⁹ On the other hand, this development led to negative consequences in some cases. For instance, the chairperson of the Pine Ridge, Mr. Dick Wilson, was accused on corruption and fraud during the '70s.

In conclusion, the relationship between the Native American Indigenous peoples and the U.S. government has improved slowly, and nowadays the Oceti Sakowin has an authority over matters that are related to everyday life in reservations. Nevertheless, decisions that have wider impact on the lives of the citizens, regardless of their background, are made by the federal government. In addition, the responsibility of matters that concern the use of the land rests with the U.S. government.⁸⁰ In this respect, Native American Indigenous peoples have only limited chances to protect their environment.

2.3 History of Native American Indigenous Activism towards Sovereignty

As mentioned in the previous subchapter, the termination policy towards Native American Indigenous tribes developed a new self-consciousness and agency among indigenous peoples. The resistance that resulted from termination policies gave an initiative for a nationalistic civil rights movement that demanded self-determination and sovereignty for the Native American Indigenous communities. The birth of this movement coincided with the emergence of the Human Rights Movement in the United States but, in some respects, its agenda differs from that of a conventional human rights movement. This subchapter shall discuss the emergence of the Red Power Movement, its agenda, and its influence on Native American Indigenous communities.

⁷⁸ Dennis M. Christafferson, "Sioux, 1930–2000," in *Handbook of North American Indians: Plains, Part 2.*, ed. Raymond J. DeMallie, Vol. 13 (Washington D.C.: Smithsonian Institution, 2001), 825.

⁷⁹ Josephy Jr., "Modern America and the Indian," in *Indians in American History: An Introduction*, eds. Hoxie and Iverson (Somerset: John Wiley & Sons, 1997), 210–211.

⁸⁰ Christafferson, "Sioux, 1930–2000," in *Handbook of North American Indians: Plains, Part 2.*, ed. DeMallie, Vol. 13 (Washington D.C.: Smithsonian Institution, 2001), 830.

2.3.1 Competing Political Views on Future of Native American Indigenous Peoples

The government of the United States has promoted both assimilationist and pluralist politics towards Native American Indigenous peoples. It is important to note that different opinions on the future of the Native American Indigenous communities have existed among Indigenous peoples as well. Organizations that were fully operated by Indigenous persons and that promoted these political stances created the foundations for political activism among Native American Indigenous peoples. This activism continues in its various forms even today. Moreover, the history of these organizations illustrates political trends that exist in the American society and inside indigenous communities.

The first intertribal organization which focused on indigenous politics was The Society of American Indians. It was formed in Columbus in October 1911, and it emerged from the academic spheres and promoted assimilationist politics. The members, most notably the president Carlos Montezuma, held that Native American Indigenous peoples should abandon their culture and traditions and become civilized American citizens. The Society of American Indians advocated self-help and social justice as means by which Native American Indigenous peoples could adopt a more advanced lifestyle. These views echoed in many respects the general atmosphere of the American society of that time.⁸¹ Nevertheless, almost immediately after the foundation of the American Indian Society emerged another political intertribal organization that promoted the opposite views. The Brotherhood of North American Indians was founded in Washington D.C., and it supported the retention of indigenous cultures as well as the preservation of the treaty rights and the existing reservations. In addition, it demanded a compensation for lost lands. Since the agenda of this organization was in a strong contrast to the general atmosphere both in the American society and within the indigenous communities, it did not manage to gain support and it was disbanded after two years.⁸²

The Society of American Indians was disbanded after Montezuma's death in 1923. Next year, Indian Citizenship Act was passed in the Congress, i.e. one of the Society of American Indians' initial objectives was reached. One of the former leaders of the organization, Mrs. Gertrude Bonnin, established the National Council of American Indians in 1926. The purpose of this organization was to advocate voting rights for Native American Indigenous peoples. Its attempts were not successful, and it became inactive by the '40s.⁸³

⁸¹ Shreve, *Red Power Rising: The National Indian Youth Council and the Origins of Native Activism* (Norman: University of Oklahoma Press, 2014), 18–19, 21.

⁸² Ibid., 21.

⁸³ Ibid., 21–22.

Another organization which embraced the legacy of the Society of American Indians was the American Indian Federation. It was founded in New Mexico in 1934, and the leaders of the organization fundamentally disagreed with Mr. John Collier's opinions and the purpose of the Indian Reorganization Act. The organization's strategies had little effect on the federal policies. Instead, it ended up in a severe confrontation with Mr. John Collier, and ultimately, Mr. Collier claimed that the American Indian Federation was an un-American, fascist organization. Eventually, the American Indian Federation became inactive by the time Mr. Collier resigned from his position in 1945.⁸⁴

During the World War II, a group of indigenous persons decided to establish an organization to help tribes to receive settlements from the Indian Claims Commission and to cherish the spirit of the Indian Reorganization Act. The National Council of American Indians was founded in Chicago in 1944, and its name was changed to the National Congress of American Indians in the inaugural conference, which was held in Denver in the same year. 81 delegates from 50 tribes residing in 27 states of the U.S. participated on that conference.⁸⁵

The National Congress of American Indians determined that a legal assistance on land claim cases and advancing indigenous politics are the main objectives for the organization. Specifically, the organization concentrates on promoting indigenous civil rights and campaigning for equality in the American society.⁸⁶ In the '50s and in the '60s, its main concern was lobbying against forced termination politics. Nevertheless, according to Bradley Shreve, by that time among the indigenous people there were still individuals who believed that termination was inevitable, and that tribes should aim at self-sufficiency via economic progress.⁸⁷

The American Indian Development Inc. was founded to educate tribes for the new future. Eventually, it targeted indigenous youth as well. The educators wanted to prepare young persons for leadership positions. Furthermore, they hoped that these future leaders would adopt the ideals of the National Congress of American Indians and protect tribal sovereignty, treaty rights, cultural preservation, and self-determination in the years to come.⁸⁸

Similar concerns about the future of Native American Indigenous communities had arisen in other parts of the country as well. For instance, the New Mexico Association for Indian Affairs organized annually the Regional Indian Youth Council, in which young indigenous persons discussed political matters. The council did not have uniform political stance, or certain goals on educating

⁸⁴ Bradley G. Shreve, *Red Power Rising: The National Indian Youth Council and the Origins of Native Activism* (Norman: University of Oklahoma Press, 2014), 26, 29, 30.

⁸⁵ *Ibid.*, 32–34.

⁸⁶ *Ibid.*, 34.

⁸⁷ *Ibid.*, 36–37.

⁸⁸ *Ibid.* 36.

young people. Nevertheless, it was an important forum for young people. And, more importantly, it served, beside the Workshop on American Indian Affairs, as the predecessor for the National Indian Youth Council and the nationwide Red Power Movement.⁸⁹

The Workshop on American Indian Affairs had similar goals as the American Indian Development Inc, i.e. the education of young indigenous persons according to the ideals of the National Congress of American Indians. Moreover, the focus was on federal policies targeted at indigenous persons and communities, and the participants learned about colonialism, cultural relativism, and nationalism as well as how to identify racist procedures and to act against them.⁹⁰

In June 1961, participants of the Regional Indian Youth Council and the Workshop on American Indian Affairs were invited to the American Indian Chicago Conference. Some 800 indigenous persons gathered to discuss matters that were important to Native American Indigenous communities. After the first days, younger participants concluded that they have to form their own caucus in order to better voice the opinions of the younger generation in the conference proceedings.⁹¹ This caucus included Mel Thom, Clyde Warrior, Herb Blatchford, Thomas and Bernadine Eschief, Shirley Hill Whitt, Howard McKinley, Jr., Joan Noble, and Karen Rickard, who would form the National Indian Youth Council in New Mexico just two months after the American Indian Chicago Conference.

One of the matters discussed in the Chicago Conference was indigenous activism and participation on the planning of the policies, programs, and budgets designed for the tribes. The participants of the conference petitioned President John F. Kennedy to allow indigenous leaders to monitor and offer their expertise on these administrative processes.⁹² It seems that the Kennedy administration took this initiative into consideration since later the National Indian Youth Council was active, for instance, in the indigenous advisory committee of the Upward Bound Program hosted by the Office of Economic Opportunity.

2.3.2 National Indian Youth Council in Action

The National Indian Youth Council was formed during a politically tumultuous time. Civil rights organizations struggled to create a better world for minority groups and, in general, to all neglected groups of people. Politically the '60s was characterized as the decade of heated ideological struggles. Especially young people wanted to challenge old establishments and participate on processes that

⁸⁹ Bradley G. Shreve, *Red Power Rising: The National Indian Youth Council and the Origins of Native Activism* (Norman: University of Oklahoma Press, 2014), 37, 40.

⁹⁰ Ibid., 65–66.

⁹¹ Ibid., 89–90.

⁹² Josephy Jr., "Modern America and the Indian," in *Indians in American History: An Introduction*, eds. Hoxie and Iversen (Somerset: John Wiley & Sons, 1997), 210.

would correct the social injustices and make the world a better place for future generations. Strong idealistic views found enthusiastic proponents among activist groups and, in general, strong political divisions existed in the American society.

The founders of the National Indian Youth Council were the children of their time. They wanted to make a difference in the world and correct social injustices that they saw around them and which they experienced personally in their lives. Bradley Shreve notes that only ten to fifteen individuals formed the core of the National Indian Youth Council, but they managed to combine the organizational structure of the Regional Indian Youth Council and the ideals of the Workshop on American Indian Affairs. Their devotion on advocating indigenous matters steered the organization through the '60s.⁹³

In the first annual meetings young Native American Indigenous activists continued to discuss Indigenous politics and methods to preserve indigenous culture and indigenous identity⁹⁴. They also observed closely other human rights organizations and even considered joining their African American contemporaries in the Student Nonviolent Coordinating Committee and in the Students for a Democratic Society. Some members of the National Indian Youth Council showed solidarity and participated on the March on Washington in 1963. Nevertheless, the board members concluded that their agenda differed from that of the Human Rights Movement in some fundamental respects, and therefore, they decided to stay as a separate activist group promoting indigenous matters.⁹⁵

The attitudes towards traditions and the objectives of the action were the main differences between the National Indian Youth Council and the Civil Rights Movement. The Civil Rights Movement promoted equality and civil rights for neglected minority groups. By 1966, a group of the Student Nonviolent Coordinating Committee's members formed their own faction. They called for Black Power, abandoned the agenda of the Civil Rights Movement, and sought to challenge the fundamental ideals and assumptions of their elders. While the Civil Rights Movement promoted the idea that African Americans should be integrated to the American society, the proponents of the Black Power asserted the idea of separationist politics and emphasized the value of a distinct African American culture and institutions. Some activists held even nationalistic aspirations on their agenda.⁹⁶ The members of the National Indian Youth Council, on the contrary, sought to strengthen the traditions and the ideals of indigenous communities. They did not wish to question the wisdom and the practices of their elders. Nor they advocated assimilationist politics for indigenous communities. The National

⁹³ Shreve, *Red Power Rising: The National Indian Youth Council and the Origins of Native Activism* (Norman: University of Oklahoma Press, 2014), 5–6, 93.

⁹⁴ *Ibid.*, 111.

⁹⁵ *Ibid.*, 113.

⁹⁶ *Ibid.*, 13–14.

Indian Youth Council promoted cultural preservation, sovereignty, integrity, and self-determination for indigenous communities. In some respects, these ideals were similar to the separationist ideas of the proponents of the Black Power. Nevertheless, the major difference was that young indigenous activists were backed by their elders, by traditional and conservative tribal leaders, and by the indigenous communities.⁹⁷ Due to the historical events, Native American Indigenous peoples were already treated as nations within a nation, or at least a distinct community during the years of termination.

The National Indian Youth Council did not pursue direct action until they decided to support indigenous fishers and indigenous community that resided in Washington. These fishers had been arrested by game wards because they did not obey the annual fishing restrictions in the Puyallup River but justified their actions by their treaty rights.⁹⁸ The National Indian Youth Council managed to raise media attention to this indigenous cause. Actor Marlon Brando had participated on the annual meetings of The National Indian Youth Council since 1963, and usually he brought a film crew with him to document the events. He and the film crew were present when young indigenous activists demonstrated with the indigenous fishers on the banks of the River Puyallup on March 1, 1964.⁹⁹ The following demonstration was held in Olympia, and the board of the youth organization met and discussed the situation with Governor Albert Rossellini. The meeting was a disappointment for the indigenous activists.¹⁰⁰ Nevertheless, their initiative for a campaign was important because it put indigenous fishing rights on the political agenda in Washington, and ultimately it helped to secure the treaty rights for indigenous persons.¹⁰¹

After the demonstrations in Washington, the National Indian Youth Council's rhetoric sharpened. Bradley Shreve claims that the activists were unable to form a coherent action plan for the future. They managed to utilize established political channels to promote renewals but at the same time they questioned and criticized the official politics of the United States.¹⁰² On the other hand, it seems that this approach was very common in politics of that time. Young indigenous activists wanted to make a difference and they wanted to make it on their own terms. They did not fully trust on the government after the era of termination. Given this history, activists' ambivalent attitude towards official political channels seems to be a natural reaction to the circumstances. The political divide and

⁹⁷ Bradley G. Shreve, *Red Power Rising: The National Indian Youth Council and the Origins of Native Activism* (Norman: University of Oklahoma Press, 2014), 3–4, 113.; Josephy Jr., "Modern America and the Indian," in *Indians in American History: An Introduction*, eds. Hoxie and Iverson (Somerset: John Wiley & Sons, 1997), 210.

⁹⁸ Shreve, *Red Power Rising: The National Indian Youth Council and the Origins of Native Activism* (Norman: University of Oklahoma Press, 2014), 13.

⁹⁹ *Ibid.*, 112, 128.

¹⁰⁰ *Ibid.*, 130–131.

¹⁰¹ *Ibid.*, 138.

¹⁰² *Ibid.*, 140–141.

the general atmosphere in the '60s supported independent ideas. Therefore, the activists could promote, for instance, indigenous education and at the same time attack against social reform programs, which they considered to be colonialist and racist. And, on the other hand, as Bradley Shreve notes, the lack of a coherent action plan ultimately led the organization to inner conflicts and problems.

The National Indian Youth Council continued to promote its agenda in various meetings after the demonstrations in Washington. The annual meeting of the council was held in Neah Bay, Washington, in August 1964, and the planning of the new actions for the future was on the agenda. Obviously, the council's participation on the American Indian Capital Conference on Poverty had inspired the board members since promoting educational reform among indigenous communities became a major topic in the meeting. The council decided to begin a co-operation with the United Scholarship Service, which supported the education of Indigenous and Hispanic students. This was the first measure in transforming the National Indian Youth Council as a respectable educational organization. Nevertheless, some of the board members still advocated more radical politics and goals and used strong rhetoric. Bradley Shreve implicates that this factor occasionally prevented the National Indian Youth Council from having productive discussions and making connections to important networks. They seemed to have an ambivalent reputation and not all organizations were willing to co-operate with them.¹⁰³

The inner conflict of the National Indian Youth Council escalated in the next annual meeting that was held on Flathead Reservation in Montana in 1965. Most of the founding members resigned from the board. According to Bradley Shreve, no open conflict emerged during the meeting but different visions on the future of the organization might have had an effect to the events. Another reason was probably the fact that the resigned board members had other tasks to pursue in their life, and it was time to give an opportunity for the younger members to raise into a leading position in the council. Shirley Hill Witt, Joan Noble, Clyde Warrior, and eventually also Herb Blatchford resigned from the board.¹⁰⁴

In the following year, the members of the National Indian Youth Council were invited to the indigenous advisory committee of the Upward Bound program hosted by the Office of Economic Opportunity¹⁰⁵. This co-operation opportunity gave valuable experience on developing educational programs for indigenous youth but, once again, council members, who supported more radical views and tactics, questioned the co-operation with established institutions. Obviously frustrated on the state

¹⁰³ Bradley G. Shreve, *Red Power Rising: The National Indian Youth Council and the Origins of Native Activism* (Norman: University of Oklahoma Press, 2014), 146–147.

¹⁰⁴ *Ibid.*, 151–152.

¹⁰⁵ *Ibid.*, 153.

of the affairs, Clyde Warrior ran for the council's presidency in the annual meeting of 1966. He defeated Gerald Brown, who supported conventional politics and methods to promote indigenous matters.¹⁰⁶ Warrior's victory changed, once again, the council's official rhetoric and forms of action. In February 1967, Mel Thom and Hank Adams led a demonstration against the Office of Economic Opportunity and against federal politics towards indigenous peoples. By that time, some members of the council argued even against the National Congress of American Indians but Bradley Shreve states that this conflict was a minor matter. Both organizations supported the same goals, but the difference was in rhetoric and methods they decided to employ.¹⁰⁷

The National Indian Youth Council's two-fold political tactics became visible when one group of its members concentrated on the educational reform that would have created culturally sensitive practices in schools and a curriculum that would have supported indigenous culture, and, simultaneously, another group planned a more radical Institute of American Indian Studies which would have been organized according to the model of the Workshop on American Indian Affairs. The former was planned by Mel Thom and Robert Dumont, and it was backed by the education specialist Jack Forbes, who was a researcher on Far West Laboratory for Educational Research and Development. The latter was planned by Clyde Warrior and H. Browning Pipestern. Both projects managed to secure preliminary funding from the Office of Economic Opportunity, from the Carnegie Foundation, and from the Ford Foundation.¹⁰⁸

Unfortunately, the National Indian Youth Council ended up in a major crisis when its leader Clyde Warrior died in the summer of 1968. The members of the council honoured the memory of their leader and changed the name of his brainchild to the Clyde Warrior Institute on American Indian Studies. Mel Thom and Robert Dumont abandoned their educational reform, obviously because they were shocked on Clyde Warrior's death and could not put an effort to the project.¹⁰⁹ In addition, a promising co-operation with the funders ended when the council members were arrested on occupying the headquarters of the Bureau of Indian Affairs during a demonstration in Washington D.C. In addition, one council member organized an ad hoc powwow on a return flight from Washington D.C. to Berkeley. Furthermore, during a stopover to Denver, he was persuaded to join activists from the Three Affiliated Tribes on their way to Bismarck, North Dakota, and to participate on their forthcoming demonstration. Later the Ford Foundation accused the board members of the National Indian

¹⁰⁶ Bradley G. Shreve, *Red Power Rising: The National Indian Youth Council and the Origins of Native Activism* (Norman: University of Oklahoma Press, 2014), 154–155.

¹⁰⁷ *Ibid.*, 157–158.

¹⁰⁸ *Ibid.*, 162, 164, 167–168.

¹⁰⁹ *Ibid.*, 173–175.

Youth Council for using the allocated grant money on protesting rather than on model schools and educational development.¹¹⁰

In the annual meeting of the council, almost all board members, staff, and officers were replaced by new activists. Even Mel Thom resigned from his position as the executive director. H. Browning Pipestern was elected as the president of the council. A new executive director, Gerald Wilkinson, was appointed in May 1969. He proved to be a devoted supporter and a campaign worker for indigenous matters, and, according to Bradley Shreve, he played the key role in rebuilding the council and restoring its legacy.¹¹¹

The National Indian Youth Council continued its efforts in the field of education as well as its protests against federal policies towards indigenous communities. For this purpose, it teamed up with the American Indian Movement. Furthermore, the council employed traditional means of activism as well. The activists participated on political lobbying, and the council hired attorneys to defend indigenous rights in the court rooms.¹¹²

2.3.3 Further Activism in 1970s and 1980s

The National Indian Youth Council became a role model for many indigenous activist groups and civil rights movements during the following decades. Its tactics of direct action were adopted and employed in other movements as well. One of the followers of this legacy was the American Indian Nation, which hoped to transform an abandoned federal prison on Alcatraz Island into an American Indian National Center. When Jack Forbes heard about the plans, he joined the American Indian Nation bringing a group of students with him. The plan was rejected by the politicians. Consequently, a group of indigenous students and other activists formed the Indians of All Tribes movement and occupied the island from November 20, 1969 onwards.

Charles Wilkinson states that young indigenous persons arrived at Alcatraz with high hopes and strong idealism. Numerous celebrities, tribal leaders and other prominent persons visited Alcatraz soon after the occupation had begun. Nevertheless, within two months the course of events turned towards destruction.¹¹³ Wilkinson claims that initially the problem was in the heterogeneity of the group. Some participants had a traditional indigenous upbringing while others did not have any previous knowledge on indigenous peoples. Some had sincere motivations and they truly wanted to promote indigenous matters, while for others Alcatraz was merely just another place to escape any form

¹¹⁰ Bradley G. Shreve, *Red Power Rising: The National Indian Youth Council and the Origins of Native Activism* (Norman: University of Oklahoma Press, 2014), 175–176.

¹¹¹ *Ibid.*, 178, 180.

¹¹² *Ibid.*, 181.

¹¹³ Charles F. Wilkinson, *Blood Struggle : The Rise of Modern Indian Nations* (New York: Norton, 2005), 135.

of authority. In general, the activists formed so fractious group that they could not make effective decisions. Furthermore, open confrontations and vandalism emerged, nobody took care of the common cleanliness, and the activists were unable to provide health care in the case of emergency. The building was not suitable for a long-term accommodation, and many left the island when the winter was reaching in.¹¹⁴ The occupation lasted until June 1971 when the last fifteen activists left the island. The endeavours of the activist group ultimately failed but they managed to draw media attention on their cause. Furthermore, the following protests would draw inspiration from the tactics used in Alcatraz Island.¹¹⁵

The co-operation between the National Indian Youth Council and The American Indian Movement ended in 1972 due to the misfortunate events during the demonstration called the Trail of Broken Treaties. These organizations together with other groups of activists organized a march that brought activists from Seattle, San Francisco, and Los Angeles to Washington D.C. Indigenous activists campaigned, firstly, for a restoration of treaty rights, secondly, for a new organization that would replace the Bureau of Indian Affairs, thirdly, for the protection of indigenous religions, and, fourthly, for the preservation of indigenous cultures. When the activists reached Washington D.C., they marched to the headquarters of the Bureau of Indian Affairs. According to Mark Trahant, the following events were due to the failure of the organizers to provide adequate accommodation for the participants. The Bureau of Indian Affairs was occupied for a week, and during that week the activists also destroyed the movable property of the office.¹¹⁶

Indigenous civil rights organizations participated occasionally on demonstrations that, in fact, concerned the use of a political power inside indigenous communities. One of such cases was a political battle in which two factions battled over the control of the tribal council on the Spirit Lake Reservation in North Dakota in 1969. Tribal chairperson Florence Joshua accused Lewis Goodhouse on electoral fraud. The National Indian Youth Council organized a protest powwow in Fort Totten to support Florence Joshua and to demand new elections.¹¹⁷ Another similar case was the occupation of Wounded Knee on Pine Ridge Reservation in 1973. The American Indian Movement organized the

¹¹⁴ Charles F. Wilkinson, *Blood Struggle : The Rise of Modern Indian Nations* (New York: Norton, 2005), 136.

¹¹⁵ Shreve, *Red Power Rising: The National Indian Youth Council and the Origins of Native Activism* (Norman: University of Oklahoma Press, 2014), 183–184.

¹¹⁶ Bradley G. Shreve, *Red Power Rising: The National Indian Youth Council and the Origins of Native Activism* (Norman: University of Oklahoma Press, 2014), 194–195.; Mark N. Trahant, "The 1970s: New Leaders for Indian Country," in *Indians in American History: An Introduction*, eds. Frederick E. Hoxie and Peter Iverson (Somerset: John Wiley & Sons, 1997), 243.

¹¹⁷ Shreve, *Red Power Rising: The National Indian Youth Council and the Origins of Native Activism* (Norman: University of Oklahoma Press, 2014), 195.

occupation and demanded the removal of the chairperson of the Oglala Tribe, Dick Wilson, due to his corruption and tyranny¹¹⁸.

According to Bradley Shreve, the last major campaign of the National Indian Youth Council during the era of civil rights activism regarded the construction of coal gasification plants on Navajo Nation. The council joined forces with the Coalition of Navajo Liberation for the demonstrations in 1974. In 1977 the U.S. Congress rejected the construction project. Shreve states that the political atmosphere changed in the United States during the '70s, and social and political reforms and new legislation affirmed sovereignty and self-determination for Native American Indigenous communities.¹¹⁹ In the '80s the National Indian Youth Council co-operated with the Native American Rights Fund and campaigned, for instance, for the protection of sacred lands and indigenous religious rights.¹²⁰

2.3.4 Native American Indigenous Activism and Impact of Vine Deloria Jr.

Vine Deloria Jr. is one of the most famous philosophers of the Oceti Sakowin. His works have inspired generations of young indigenous persons to take action and promote indigenous matters. He was born in Martin, a border town on Pine Ridge reservation on March 26, 1933.¹²¹ He acquired his Bachelor's degree in Lutheran Seminary in Rock Island, Illinois in 1963 and became the executive director of the National Congress of American Indians in the following year. In 1967, he resigned from this position at his own will in order to continue studying. He acquired his Juris Doctorate from the University of Colorado at Boulder in 1970.¹²²

Vine Deloria Jr. and Clyde Warrior met each other when Vine Deloria Jr. participated on a workshop organized by the National Indian Youth Council in 1963. They were close friends for a relatively short period of time until their opinions on the best methods to advocate indigenous matters diverged substantially¹²³. Nevertheless, it is important to bear in mind, that Vine Deloria Jr. and Clyde Warrior always shared the same ideas on the development of indigenous communities. Even if Vine Deloria Jr. concentrated on working within the federal system, he acknowledged that direct action,

¹¹⁸ Bradley G. Shreve, *Red Power Rising: The National Indian Youth Council and the Origins of Native Activism* (Norman: University of Oklahoma Press, 2014), 195.

¹¹⁹ *Ibid.*, 196.

¹²⁰ *Ibid.*, 198.

¹²¹ David Martínez, *Life of the Indigenous Mind: Vine Deloria Jr. and the Birth of the Red Power Movement* (Lincoln: University of Nebraska Press, 2019), 16.

¹²² *Ibid.*, 19, 25.

¹²³ *Ibid.*, 20.

i.e. demonstrations and occupations, were often necessary to raise prevailing problems on the political agenda.¹²⁴

Deloria's own political consciousness developed during the '60s¹²⁵. His books *Custer Died for Your Sins*, *We Talk, You Listen*, *God Is Red*, and *Behind the Trail of Broken Treaties* are very important works for Native American Indigenous peoples, because those were the first works that discussed indigenous matters from the Native American indigenous perspective. In addition, those books have helped to educate young indigenous persons. The ideas of Vine Deloria Jr. have contributed to the development of a new indigenous identity and awareness, which could not have been developed under the decades of suppression. In the 19th century and in the beginning of 20th century Native American Indigenous peoples were educated to believe that they are unworthy as human beings and that their culture and customs are uncivilized.

Vine Deloria's legacy for indigenous communities emphasizes the significance of self-determination as an integral part of political power and agency. For non-indigenous readers, Deloria's legacy was the shift on the paradigm related to the perception of indigenous communities in North America. In the '60s and in the '70s indigenous communities were perceived as vanishing relics until the works of Vine Deloria changed this image to that of contemporary dynamic nations.¹²⁶

Martínez claims that Deloria's talent in writing made him famous among young indigenous persons and contributed to the development of their political consciousness. Besides self-determination, Deloria advocated cultural revitalization and political resistance as well. He was convinced that indigenous communities should perceive themselves as sovereign nations. The United States should acknowledge and respect this sovereignty as well.¹²⁷ The Red Power Movement shattered both the belittling image and the romanticized image that the American majority had on Native American Indigenous peoples. As Vine Deloria Jr. notes in *Custer Died for Your Sins*, this created a societal atmosphere in which indigenous peoples were suddenly expected to explain themselves in intergroup contacts with the American majority.¹²⁸ In *Behind the Broken Treaties*, Vine Deloria Jr., citing Alex Chasing Hawk, a tribal leader of Cheyenne River, argued strongly against federal agencies who still treated Native American Indigenous peoples as groups of people who should be civilized according to the values and concepts that are cherished in the American mainstream society.¹²⁹

¹²⁴ David Martínez, *Life of the Indigenous Mind: Vine Deloria Jr. and the Birth of the Red Power Movement* (Lincoln: University of Nebraska Press, 2019), 25.

¹²⁵ *Ibid.*, 22.

¹²⁶ *Ibid.*, 13.

¹²⁷ *Ibid.*, 15,

¹²⁸ *Ibid.*, 48–49.

¹²⁹ *Ibid.*, 64.

In his works, Vine Deloria Jr. strongly advocated an idea that Native American Indigenous peoples should declare independency from the United States and act as sovereign nations. According to Deloria, this would be the only a natural development in the relationship between indigenous peoples and the United States. In addition, Vine Deloria Jr. illustrated the differences between indigenous culture and the American mainstream culture. For instance, he remarked that the concept of power is not based on authoritarian practices in most of the indigenous tribes. Power is based on a voluntary loyalty in indigenous communities. Indigenous persons evaluate one's ability for leadership via his or her accomplishments and actions. Every member of the tribe is free to decide who they wish to follow, and usually people only follow the example of a leader if they are convinced that this action would be the best for them.¹³⁰

2.4 Dakota Access Pipeline Project and Stand with Standing Rock Movement

The events leading to demonstrations against Dakota Access Pipeline began in 2014. The original plan was to build the pipeline past Bismarck in North Dakota but the residents of the town worried that a possible oil leak would threaten the municipal water supply. Instead, the pipeline was rerouted across the Missouri River upstream of Standing Rock. David Treuer states that the project was fast-tracked, and the permitting process was streamlined. Energy Transfer Partners was still legally obliged to co-operate and consult tribes in order to avoid destroying historic or cultural resources.¹³¹ There are controversial accounts on how the situation escalated into protests in Cannon Ball. Following subchapters will, firstly, shed light on certain legal procedures related to the events in Standing Rock. Secondly, the following subchapters will discuss the events in Standing Rock and the subsequent legal battle in the court. Above mentioned controversial accounts are included in order to gather a more complete understanding on the events.

2.4.1 Laws and Procedures Related to the Stand with Standing Rock Movement

A judicial process concerning Dakota Access Pipeline began in July 2016 and it is still continuing in November 2020. During the process, the Standing Rock tribe has pleaded claims under several acts and statutes. The Standing Rock tribe has also acquired support from other tribes belonging to the Oceti Sakowin, and, for instance, the Cheyenne River tribe, the Yankton tribe, and the Oglala tribe of Pine Ridge have brought new aspects and matters to the process.

¹³⁰ David Martínez, *Life of the Indigenous Mind: Vine Deloria Jr. and the Birth of the Red Power Movement* (Lincoln: University of Nebraska Press, 2019), 270.

¹³¹ David Treuer, *The Heartbeat of Wounded Knee: Native America from 1890 to the Present* (New York: Riverhead Books, 2019), 432.

At the first stage, the Standing Rock tribe pleaded claims under Clean Water Act and Rivers and Harbors Act, and consequently, challenged Nationwide Permit 12 authorizations. Furthermore, they claimed that authorizations were made without compliance to the National Historic Preservation Act and to the National Environmental Policy Act.¹³² Nationwide permits are issued under authority of the Clean Water Act and Rivers and Harbors Act.¹³³ The ultimate purpose of the Clean Water Act is to protect aquatic systems by prohibiting a discharge of a pollutant, dredged spoil, or any other harmful material into waters¹³⁴. Rivers and Harbors Act, in turn, protects waters that are either subject to the tides or serve as important trade routes. Even past and future trade routes are included into the scope of the Rivers and Harbors Act, and it prohibits any alteration or modification that would eventually have an impact on the natural course, location, condition, or capacity of these waters.¹³⁵

National Historic Preservation Act of 1966, section 106 determines that historic properties are prehistoric or historic sites, buildings, structures, objects, or remains that are eligible for or already listed in the National Register of Historic Places. If an historic property has not been previously determined and listed in the National Register of Historic Places, it should be evaluated in consultation with the appropriate State Historic Preservation Officer, Tribal Historic Preservation Officer, tribes, or if located in Hawaii, Native Hawaiian Organizations.¹³⁶ According to David Treuer, Energy Transfer Partners' strategy was to reroute the pipeline should previously unidentified, historically or culturally significant entities be affected. Cultural surveys found 149 potentially eligible sites for the National Register of Historic Places and in all but nine cases the pipeline was rerouted. In these nine remaining cases, Energy Transfer Partners consulted North Dakota State Historic Preservation Officer in order to keep these sites intact.¹³⁷ Nevertheless, the Standing Rock tribe was inadequately consulted during the process. That was one of the reasons for legal dispute.

A nationwide permit is a form of general permit that is created to minimize the burden and delay of the regulatory measures related to construction projects. More specifically, the purpose of Nationwide Permit 12 is to authorize construction and maintenance of utility lines in waters of the United States. 53 nationwide permits for various types of development projects and construction activities are issued for five-year periods by the U.S. Army of Corps' Engineers. This agency shall also

¹³² *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 2016 WL 4033936 (D.D.C.) at paras 2–3.

¹³³ Congressional Research Service, "The Army Corps of Engineers' Nationwide Permits Program: Issues and Regulatory Developments," Congressional Research Service, <https://www.everycrsreport.com/reports/97-223.html> (accessed April 2, 2020).

¹³⁴ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 2016 WL 4033936 (D.D.C.), at para 12.

¹³⁵ *Ibid.*, at paras 16–17.

¹³⁶ National Park Service, "National Park Service – Working with Native Americans," https://www.nps.gov/history/tribes/National_Section_106.htm

¹³⁷ Treuer, *The Heartbeat of Wounded Knee: Native America from 1890 to the Present* (New York: Riverhead Books, 2019), 432–433.

revise and renew these permits regularly. Several of the nationwide permits require a specific preconstruction notification for the U.S. Army of Corps' Engineers. The purpose of a specific preconstruction notification is to ensure that U.S. Army of Corps' Engineers has enough time to determine whether the adverse effects of the activity are minimal. 32 general conditions apply for nationwide permits and General Condition 20 states that if an activity may affect properties eligible for listing in the National Register of Historic Places, the authorization will be postponed until the requirements of section 106 of the National Historic Preservation Act are fulfilled. When an evaluation process for a historic property is acknowledged, the construction project cannot proceed until the district engineer completes an analysis on the site and verifies that either consultations required by the National Historic Preservation Act are complete or the action will not have an effect on any eligible historic site.¹³⁸ It is noteworthy that if Nationwide Permit 12 will be used to streamline the regulatory measurements, United States Army of Corps' Engineers basically has an authority over the Advisory Council on Historic Preservation in determining whether a historic property is eligible for listing in the National Register of Historic Places.¹³⁹

The general purpose of the National Environmental Policy Act is to ensure that all actions that might have harmful effects on the environment are considered and assessed carefully before implementing an action plan¹⁴⁰. If the action might have significant direct, indirect, or cumulative adverse effects, those must be assessed in an Environmental Impact Statement. In unclear cases an Environmental Assessment procedure might help to determine whether the Environmental Impact Statement is needed. If the ultimate result of the assessment is that no significant effects are determined, the agency should issue a statement of Finding of No Significant Impacts.¹⁴¹

On the other hand, if an Environmental Assessment reveals that an action has significant effects on the environment, but those can be avoided, minimized, reduced, eliminated, or compensated to the point of non-significance, an agency might want to issue a statement of mitigated Finding of No Significant Impacts and avoid the responsibility of completing an Environmental Impact Statement. Methods of mitigation might include, for instance, avoiding the impact by revising the action plan and taking actions and using techniques that are environmental-friendly. Another possible method is to minimize the impact by limiting the degree of an action and repairing, rehabilitating, or restoring the environment afterwards. Yet other measures are to reduce or eliminate the impact over

¹³⁸ Congressional Research Service, "The Army Corps of Engineers' Nationwide Permits Program: Issues and Regulatory Developments," Congressional Research Service, <https://www.everycrsreport.com/reports/97-223.html> (accessed April 2, 2020).

¹³⁹ Ibid.

¹⁴⁰ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 2016 WL 4033936 (D.D.C.), at para 33.

¹⁴¹ Ibid., at paras 36–37.

time by preservation or to compensate for the impact by providing substitute resources. The implementation of the selected mitigation methods should be monitored, and the results of the monitoring must be available to the public. Specific performance standards should be determined in advance in order to be able to assess the effectivity of the mitigation measures during the process.¹⁴²

2.4.2 Alleged Problems in Reaching the Tribal Historic Preservation Officer of Standing Rock

The planning of the construction work of the Dakota Access Pipeline began in 2009. Following sub-chapters will discuss the events in Standing Rock and the subsequent legal battle in the court. There are controversial accounts on how the situation escalated into a violent confrontation in Cannon Ball and following subchapters will discuss the matter taking these different aspects into account.

According to a memorandum opinion by the District Judge James E. Boasberg, Standing Rock Tribal Council was given an early notification about the construction project via e-mail in November 2009. U.S. Army of Corps' Engineers claims that workshops and listening sessions were held before the Nationwide Permit 12 process, which began in 2010, and that they contacted the Standing Rock tribe in March 2010 to discuss the permits and possible concerns regarding the project¹⁴³. Next, on February and March 2011, they sent letters for Tribal Council Chairman David Archambault II and Tribal Historic Preservation Officer Wašté Win Young notifying about the proposed Nationwide Permit 12 for the construction area and requesting a consultation on a government-to-government basis. According to the memorandum opinion, the tribe admits that it refused to participate on the consultation process at this stage.¹⁴⁴

It seems that at the next stage Dakota Access LLC and U.S. Army of Corps' Engineers have approached Standing Rock Tribal Council separately, which has caused some confusion. Dakota Access LLC claims that they had a meeting with the Standing Rock Tribal Council on September 30, 2014 and the plan for the pipeline was presented in this meeting. Moreover, employees of the Dakota Access LLC claim that they had several conversations with Wašté Win Young in the next month. In the meantime, U.S. Army of Corps' Engineers' Tribal Liaison Joel Ames tried to schedule a meeting with Wašté Win Young without a success. Allegedly a meeting with the Standing Rock Tribal Council was scheduled on October 2, 2014. When U.S. Army of Corps' Engineers representatives arrived, Standing Rock Tribal Council Chairman David Archambault II told them that the meeting had started earlier than planned – obviously referring to the meeting held on September 30 – and that it had

¹⁴² Charles Eccleston and J. Peyton Doub, *Preparing NEPA Environmental Assessments: A User's Guide to Best Professional Practices* (New York: CRC Press, 2012), 46–47.

¹⁴³ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 27–28 (D.D.C. 2016), WL 4734356.

¹⁴⁴ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 28 (D.D.C. 2016), WL 4734356.

already ended.¹⁴⁵ He obviously referred to the traditions of the Oceti Sakowin according to which tribal meetings might last several days, and now the tribe considered that the meeting was over since the representatives of the Dakota Access LLC had left Standing Rock.

Joel Ames continued his attempts to reach Wašté Win Young through October 2014 in order to schedule another meeting¹⁴⁶. According to David Treuer, Young was unreachable, and meetings had to be cancelled and rescheduled.¹⁴⁷ On October 24, 2014, U.S. Army of Corps' Engineers sent a letter with information about the planned borehole testing and geotechnical surveys on the area accompanied by maps indicating identified cultural sites. They asked for tribe's help in determining whether the construction work area contains historic properties and requested a reply within thirty days.¹⁴⁸ The tribe did not respond, and Young was absent when a meeting was eventually held in Standing Rock on November 6. U.S. Army of Corps' Engineers granted an extra three weeks for responses and then, on December 18, an initial determination was made that no historic properties are affected by the construction work.¹⁴⁹

U.S. Army of Corps' Engineers' Senior Field Archaeologist Richard Harnois sent another email to Tribal Historic Preservation Officer Wašté Win Young on February 12, 2015 and requested comments regarding geotechnical surveys. The message was left unanswered. At this point Young allegedly informed Joel Ames that she works directly with the employees of the Dakota Access LLC and, therefore, other requests for a consultation are unnecessary.¹⁵⁰ If this is true, it might be the case that Young either did not trust Joel Ames and U.S. Army of Corps' Engineers or preferred to communicate with a female tribal liaison at this stage. The course of the events implicates that either Joel Ames misunderstood Young's intentions, or the negotiations with the Dakota Access LLC were not successful and Young changed her mind afterwards. Nevertheless, after this alleged declaration, on February 18, 2015, U.S. Army of Corps' Engineers accepted a preconstruction notification for geotechnical surveys. This notification is required for Nationwide Permit 12.¹⁵¹ Furthermore, they sent another generic form letter for Wašté Win Young on February 17, 2015 and informed her on forth-

¹⁴⁵ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 14–15 (D.D.C. 2016), WL 4734356.

¹⁴⁶ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 15 (D.D.C. 2016), WL 4734356.

¹⁴⁷ Treuer, *The Heartbeat of Wounded Knee: Native America from 1890 to the Present* (New York: Riverhead Books, 2019), 433–434.

¹⁴⁸ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 15 (D.D.C. 2016), WL 4734356.

¹⁴⁹ Treuer, *The Heartbeat of Wounded Knee: Native America from 1890 to the Present* (New York: Riverhead Books, 2019), 434.

¹⁵⁰ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 15–16 (D.D.C. 2016), WL 4734356.

¹⁵¹ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 16 (D.D.C. 2016), WL 4734356.

coming preconstruction notifications, requested help in further consultations regarding possible historic properties on the construction work area, and requested a response prior to March 30, 2015 in order to be able to begin a review required by the National Historic Preservation Act, Section 106¹⁵².

On March 2, 2015, U.S. Army of Corps' Engineers received a letter from Wašté Win Young. The letter was dated on February 18, 2015, and in it she expressed concerns that geotechnical surveys might affect historical properties and requested full cultural surveys under a tribal monitoring prior to any further surveys. Moreover, she requested a permission for a tribal monitoring during both preliminary geotechnical surveys and pipeline construction work. Similar letter, dated on February 25, 2015, was sent to the U.S. Army of Corps' Engineers' Regulatory Branch Chief Martha Chieply. Allegedly Joel Ames tried to schedule a meeting between Tribal Council Chairman David Archambault II and U.S. Army of Corps' Engineers' North Dakota District Commander, Colonel John Henderson in response to Young's letter¹⁵³. There might be some misunderstanding regarding Ames' actions because Colonel Henderson was not appointed as Omaha District Commander until July 2015¹⁵⁴, and the organization of the U.S. Army of Corps' Engineers lacks a separate district for North Dakota area¹⁵⁵. Obviously, U.S. Army of Corps' Engineers' Commander of Omaha District was then Colonel Joel R. Cross, who was the predecessor for Colonel Henderson.

It seems that U.S. Army of Corps' Engineers never answered to the letters sent by Wašté Win Young. Instead, they sent another request of consultation regarding Environmental Assessment on Lake Sakakawea and Lake Oahe. This letter was dated on March 30, 2015.¹⁵⁶ Wašté Win Young replied on April 8 repeating her previous concerns, declaring that the tribe opposes any oil pipeline construction work on their ancestral lands, and explaining indigenous cultural traditions related to this matter. Moreover, U.S. Army of Corps' personnel and Standing Rock Archaeologist Kelly Morgan discussed future pipeline realignments on the same day. Joel Ames tried to contact Wašté Win Young again in June, but she was on an extended leave of absence until July 27.¹⁵⁷ U.S. Army of Corps' Engineers' Operations Manager Eric Stasch sent another letter for the tribe on July 22 describing plans for Horizontal Directional Drilling on Lake Oahe site. He requested a reply from the tribe within 30 days should the tribe wish to consult U.S. Army of Corps' Engineers regarding this site¹⁵⁸.

¹⁵² *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 17 (D.D.C. 2016), WL 4734356.

¹⁵³ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 16 (D.D.C. 2016), WL 4734356.

¹⁵⁴ David Vergun, "Recently-Retired Army Colonel Named Federal Engineer of Year," The United States Army, <https://www.army.mil/article/201041> (accessed 1/21/2020),

¹⁵⁵ U.S. Army of Corps' Engineers, "Map - Headquarters U.S. Army of Corps' Engineers," <https://www.usace.army.mil/Locations.aspx> (accessed 2/12/2020),

¹⁵⁶ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 16–17 (D.D.C. 2016), WL 4734356.

¹⁵⁷ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 17 (D.D.C. 2016), WL 4734356.

¹⁵⁸ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 17–18 (D.D.C. 2016), WL 4734356.

Wašté Win Young replied in a letter dated on August 21, 2015 and again repeated her previous concerns regarding possible historic properties and the conduct of tribal consultations. Moreover, she renewed her request for a tribal monitoring during the construction work. In addition, Tribal Council Chairman David Archambault II had sent a letter of invitation to the Commander of Omaha District on August 19. The purpose of the invitation was to discuss Dakota Access Pipeline project. Subsequently, Joel Ames tried to contact David Archambault II's assistant to schedule a meeting but without a success.¹⁵⁹ In September 2015, U.S. Army of Corps' Engineers sought to organize a field trip to the Lake Oahe site, and according to the memorandum opinion, they wished to include members of the Standing Rock tribe to this occasion. It seems that the tribe was unwilling to participate, and only the company's representatives and North Dakota State Historic Preservation Officer were available for the field trip.¹⁶⁰ In the autumn 2015 Standing Rock refused to participate on any co-operation or meetings held by the U.S. Army of Corps Engineers. It is obvious that the tribe was frustrated on the course of the events. Despite the tribe's withdrawal, Standing Rock Archaeologist Kelly Morgan asserted that the tribe was still interested in a co-operation and hoped for a central role in any surveying or monitoring of the construction work. The only conditions were that the consultation process would happen on government-to-government basis and that Colonel Henderson would visit Standing Rock before the co-operation would begin. After that the tribe would be happy to join common tribal gatherings regarding Dakota Access Pipeline project.¹⁶¹

According to the declaration of Joel Ames, Wašté Win Young left her position as the Tribal Historic Preservation Officer, and in January 2016 she was replaced by Ron His Horse Is Thunder, who was, in turn, replaced by Jon Eagle Sr. in February 2016¹⁶². U.S. Army of Corps' Engineers released a draft Environmental Assessment on December 8, 2015 and requested a comment by January 8, 2016. This draft included a statement from the meeting held in October 2014 with Wašté Win Young and Dakota Access LLC. Allegedly Young had stated that the Horizontal Directional Drilling project "appeared to avoid impacts to known sites of tribal significance."¹⁶³ This statement is incorrect since Wašté Win Young was unreachable in October 2014. If this meeting really took in place, someone might have acted as her, but the tribe or Wašté Win Young herself were most likely unaware

¹⁵⁹ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 18 (D.D.C. 2016), WL 4734356.

¹⁶⁰ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 18–19 (D.D.C. 2016), WL 4734356.

¹⁶¹ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 19–20 (D.D.C. 2016), WL 4734356.

¹⁶² *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 20–21 (D.D.C. 2016), WL 4734356, Jon Sr Eagle, "Declaration of Jon Eagle, Sr. in Support of Motion for Preliminary Injunction," Earthjustice, <https://earthjustice.org/sites/default/files/press/2016/Declaration-of-Jon-Eagle-Sr.pdf> (accessed May 8, 2019).

¹⁶³ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 20 (D.D.C. 2016), WL 4734356.

of that. Wašté Win Young claims that U.S. Army of Corps' Engineers contacted the tribe for the first time in February 2015.¹⁶⁴

The tribe provided extensive comments on the draft in letters dated on January 8, 2016, and on March 24, 2016.¹⁶⁵ Between January and May the tribe and U.S. Army of Corps' Engineers' representatives met on several occasions. Tribal Council Chairman David Archambault II, a new Tribal Historic Preservation Officer Ron His Horse Is Thunder, Standing Rock Archaeologist Kelly Morgan, Standing Rock NHPA Section 106 Coordinator LaDonna Brave Bull Allard, and U.S. Army of Corps Engineers' Senior Field Archaeologist Richard Harnois met on January 22. Allegedly the tribe attended a tribal meeting three days later and discussed surveys conducted by the Dakota Access LLC, and another meeting was held at the U.S. Army of Corps' Engineers' headquarters on March 3, 2016.¹⁶⁶ Dakota Access LLC reopened the consultations with the tribes, and as a result, previously ignored sites were included to the plan, and the pipeline was rerouted accordingly.¹⁶⁷

Allegedly Colonel Henderson met with the Oceti Sakowin on the tribal summit held on February 18–19 and visited Standing Rock on February 26, April 29, and May 14.¹⁶⁸ Allegedly U.S. Army of Corps' Engineers and Dakota Access LLC offered the Oceti Sakowin an opportunity for cultural surveys on the construction sites that were located on privately owned land given that the landowner would permit them.¹⁶⁹ Treuer claims that the Standing Rock tribe refused to participate on these new surveys because of the limited scope of those. Instead, they requested U.S. Army of Corps' Engineers to redefine the area on which the pipeline might have a potential effect.¹⁷⁰ The tribe referred to the implementation of the National Historic Preservation Act and the National Environmental Policy Act. U.S. Army of Corps' Engineers refused to begin any further assessments.¹⁷¹ On July 25, 2016, the final documents required by the National Environmental Policy Act were published.¹⁷² The next day Standing Rock filed a complaint in the federal district court against the U.S. Army of Corps'

¹⁶⁴ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 2016 WL 4033936 (D.D.C.) at para 87.

¹⁶⁵ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 20 (D.D.C. 2016), WL 4734356.

¹⁶⁶ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 21 (D.D.C. 2016), WL 4734356.

¹⁶⁷ Treuer, *The Heartbeat of Wounded Knee: Native America from 1890 to the Present* (New York: Riverhead Books, 2019), 433–434.

¹⁶⁸ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 21 (D.D.C. 2016), WL 4734356.

¹⁶⁹ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 22 (D.D.C. 2016), WL 4734356.

¹⁷⁰ Treuer, *The Heartbeat of Wounded Knee: Native America from 1890 to the Present* (New York: Riverhead Books, 2019), 433–434.

¹⁷¹ Nick Estes, *Our History is the Future: Standing Rock Versus the Dakota Access Pipeline, and the Long Tradition of Indigenous Resistance* (London: Verso, 2019), 47.

¹⁷² *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 255 F. Supp. 3d 101, 115–16 (D.D.C. 2017), WL 2573994.

Engineers. The construction work began in August, and the tribe became desperate and began countermeasures.¹⁷³

It is important to note that the accounts on the events in spring 2016 differ from each other regarding, for instance, the dates and amount of correspondence and co-operation. The reason for the Standing Rock tribe's sudden withdrawal from the consultation process might be – once again – cultural matters. Given that the Standing Rock tribe is very conservative compared to other tribes, it is possible that the members of the tribe have felt the situation very intimidating. The staff of the Dakota Access LLC and U.S. Army of Corps' Engineers might have forgotten that the land area – which now is owned by American private landowners who have a power to decide whether a special permission for accessing on the area and conducting cultural surveys is guaranteed – was initially a common land for Native American Indigenous peoples, and that the question of land ownership is still very delicate matter among Native American Indigenous peoples.

In general, several reasons might explain why the Standing Rock tribe ignored the proposals for a co-operation in the first place and why Wašté Win Young refused to attend on the meetings. David Treuer notes that Joel Ames, an Osage, was a tribal liaison with the U.S. Army of Corps' Engineers,¹⁷⁴ and Michelle Dippel was a tribal liaison for the Dakota Access LLC. It is possible that David Archambault II and Wašté Win Young refused to co-operate because they had no trust on tribal liaisons. It is unclear whether Michelle Dippel has any family connections to the Native American Indigenous peoples. She might represent the American majority for the Oceti Sakowin, and potential negative intergroup attitudes might have escalated into a conflict which ended the co-operation. Another possible explanation is that the tribe feared that the initial co-operation would later be considered as an informed consent should there be any problems and a possible court case in the future. In this sense the Standing Rock tribe would have played safe and refused to respond without a consultation from lawyers at first. Yet other – more mundane – explanations for the situation might be an inner political conflict in Standing Rock which would have prevented Wašté Win Young from communicating, or an initial failure of communication and understanding of cultural codes, which, in turn, might have created strong feelings of resentment and eventually a conflict between the tribe and Dakota Access LLC, or perhaps dysfunctional mobile network and internet connections might have prevented the tribe from receiving phone calls or messages or sending a required response for the Dakota Access LLC.

¹⁷³ Nick Estes, *Our History is the Future: Standing Rock Versus the Dakota Access Pipeline, and the Long Tradition of Indigenous Resistance* (London: Verso, 2019), 47.

¹⁷⁴ Treuer, *The Heartbeat of Wounded Knee: Native America from 1890 to the Present* (New York: Riverhead Books, 2019), 433–434.

2.4.3 Standing Rock Invokes Environmental Law and National Historic Preservation Act

According to the complaint filed in federal court, the Standing Rock tribe was inadequately informed about the project and brought an as-applied challenge to Nationwide Permit 12, which was used to streamline the Dakota Access Pipeline project. According to the Standing Rock tribe, this conduct violated federal Clean Water Act and Rivers and Harbors Act, and authorizations were made without compliance to the National Historic Preservation Act and National Environmental Policy Act.¹⁷⁵ The ultimate purpose of the Clean Water Act is to protect aquatic systems by prohibiting a discharge of a pollutant, dredged spoil, or any other harmful material into waters¹⁷⁶. According to the tribe, the use of Nationwide Permit 12 fails to fulfil the requirements of the law because it authorizes certain types of discharge without any additional approval from the U.S. Army of Corps' Engineers¹⁷⁷.

Rivers and Harbors Act protects waters that are either subject to the tides or serve as important trade routes in the present. Even past and future trade routes are included into the scope of the Rivers and Harbors Act, and it prohibits any alteration or modification that would eventually have an impact on the natural course, location, condition or capacity of these waters.¹⁷⁸ The tribe claimed that U.S. Army of Corps' Engineers provided inadequate assessments of project's impacts on these waters¹⁷⁹.

The main purpose of the National Historic Preservation Act is to preserve and protect historical and archaeological sites. As stated above, U.S. Army of Corps' Engineers refused to redefine the area of potential effect, and in the complaint the tribe stated that this area must be defined early in the process in order to be able to assess whether the action has an impact on historic properties¹⁸⁰. The action in question cannot proceed prior to the assessment is completed¹⁸¹. The tribe stated that U.S. Army of Corps' Engineers defined the area of potential effect exceptionally narrowly on the Lake Oahe site¹⁸², and the procedures which U.S. Army of Corps' Engineers have implemented to fulfil the requirements of the National Historic Preservation Act, Section 106 have never been approved by the Advisory Council on Historic Preservation¹⁸³.

¹⁷⁵ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 2016 WL 4033936 (D.D.C.) at paras 2–3.

¹⁷⁶ *Ibid.*, at para 12.

¹⁷⁷ *Ibid.*, at para 15.

¹⁷⁸ *Ibid.*, at paras 16–17.

¹⁷⁹ *Ibid.*, at para 19.

¹⁸⁰ *Ibid.*, at para 22.

¹⁸¹ *Ibid.*, at para 27.

¹⁸² *Ibid.*, at para 82.

¹⁸³ *Ibid.*, at para 29.

The general purpose of the National Environmental Policy Act is to ensure that all actions that might have harmful effects on the environment are considered and assessed carefully before the action¹⁸⁴. According to the complaint, the main concern of the tribe are consequences of a possible oil leak¹⁸⁵. The pipeline route crosses Lake Oahe near the reservation boundary, and an oil leak would contaminate the water area that is a very important water supply and recreational area for the tribe. Lake Oahe has also a great cultural significance for the Oceti Sakowin. The area is used for cultural and religious practices and it contains burial grounds.¹⁸⁶ Historically, the confluence of Cannon Ball and Missouri Rivers has been an important area for religious practices and trade in which violence was prohibited¹⁸⁷. The tribe has expressed these concerns in meetings with the U.S. Army of Corps Engineers without a success. Moreover, the tribe complained, firstly, that they were never guaranteed a chance to participate on the assessment process, and secondly, that cultural surveys were conducted by non-tribal persons who, according to the complaint, were unable to assess the potential cultural significance of the area, and, as a result, the Dakota Access LLC provided only partial surveys after the process was completed.¹⁸⁸

It seems that there has been some major problems with the communication technology or network availability since the tribe stated that their requests on further surveys were left unanswered, and, on the other hand, some email messages from the U.S. Army of Corps' Engineers arrived much too late compared to the official statements made via posted letters. According to the complaint, the first contact regarding the project was an email from the U.S. Army of Corps' Engineers representative on February 12, 2015. The representative requested whether there were any concerns regarding a preliminary borehole testing and geotechnical surveys for the Horizontal Directional Drilling project.¹⁸⁹ A couple of days later, on February 17, the Tribal Historic Preservation Officer Wašté Win Young received a request of consultation regarding the assessment process of historic properties and sites. She answered both emails emphasizing the fact that the testing would have an effect on culturally significant sites and requested further surveys in a co-operation with tribal archaeologists before the project could begin.¹⁹⁰

It seems that these messages never reached U.S. Army of Corps' Engineers representatives, since the next time the tribe learned about the state of the project was on September 16 when they received a letter which declared that the assessment process for historically significant sites had ended

¹⁸⁴ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 2016 WL 4033936 (D.D.C.), at para 33.

¹⁸⁵ *Ibid.*, at para 42.

¹⁸⁶ *Ibid.*, at paras 74, 76.

¹⁸⁷ *Ibid.*, at para 78.

¹⁸⁸ *Ibid.*, at para 52.

¹⁸⁹ *Ibid.*, at para 87.

¹⁹⁰ *Ibid.*, at paras 88, 90.

on January 18. According to the complaint, the process had ended before the tribe received the initial e-mail message about the project.¹⁹¹ Obviously, U.S. Army of Corps' Engineers received the correspondence from the tribe at this stage, and the process was opened again. Tribal Council Chairman David Archambault II received another request for a consultation in September 2015, and a deadline given for a reply was less than a month from the date when the message was received. Tribal Historic Preservation Officer Wašté Win Young replied again and requested that the assessment process would be conducted according to the National Historic Preservation Act. According to the complaint, no response was received from the U.S. Army of Corps' Engineers. Next, a draft of Environmental Assessment was issued. This draft included incorrect information that Wašté Win Young had given a permission to proceed with the project on the Lake Oahe area and that she allegedly had stated that there were not historically significant properties for the Oceti Sakowin.¹⁹² According to the complaint, the tribe learned about the previous surveys that were conducted in 2014 and 2015 only when U.S. Army of Corps' Engineers sent the results of those surveys and requested a comment on them. Furthermore, U.S. Army of Corps' Engineers stated publicly that the construction would begin in May 2016 regardless of any additional assessments and results of those.¹⁹³

The tribe gave comments on the Environmental Assessment on three occasions. At this stage the U.S. Environmental Protection Agency, the U.S. Department of Interior, and the Advisory Council on Historic Preservation sent letters to the U.S. Army of Corps' Engineers criticizing the agency's attitude towards the co-operation with the tribe. They petitioned that the tribe would be invited as an equal partner into the assessment process¹⁹⁴. On February 29, 2016, David Archambault II, Wašté Win Young and a tribal archaeologist met the commander of the Omaha District Colonel John Henderson in Standing Rock and they visited the Lake Oahe site as well. David Archambault II petitioned that the co-operation would be continued and that the assessment processes required by the National Historic Preservation Act and the National Environmental Policy Act would be reopened again. After the visit he sent another petition requesting for a complete Environmental Impact Statement for the affected area.¹⁹⁵

The second meeting with the Colonel John Henderson, U.S. Army of Corps' Engineers staff, and the archaeologists of the Standing Rock tribe occurred on March 7, 2016. The tribal archaeologists showed areas that were not yet evaluated as historic properties eligible for the National Register of Historic Places, and they claimed that moles had pushed soil carrying prehistoric remains onto the

¹⁹¹ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 2016 WL 4033936 (D.D.C.), at para 89.

¹⁹² *Ibid.*, at paras 92–94.

¹⁹³ *Ibid.* at paras 97–98.

¹⁹⁴ *Ibid.*, at paras 95–96.

¹⁹⁵ *Ibid.*, at paras 99–101.

surface of the ground.¹⁹⁶ Allegedly the archaeologist of the U.S. Army of Corps' Engineers agreed that an additional study was needed¹⁹⁷.

Obviously, the staff of the U.S. Army of Corps' Engineers refused to believe that the remains presented for them were real. No further assessments were made despite yet another invitation from the tribe to come and visit Standing Rock in the end of March. On March 15, the Advisory Council on Historic Preservation sent another letter for the U.S. Army of Corps' Engineers criticizing the conduct of the assessment process and appealing for an alternative pipeline route. On April 22, U.S. Army of Corps' Engineers gave a formal declaration that no historic properties or sites were affected on the Lake Oahe site. On May 2, Wašté Win Young sent a petition for a review of this decision, and, on May 6, the Advisory Council on Historic Preservation sent another letter criticizing the assessment process. About a week later David Archambault II, Wašté Win Young, and the Advisory Council on Historic Preservation all sent letters to the U.S. Army of Corps' Engineers and objected the formal decision. U.S. Army of Corps' Engineers sent further information on their procedures regarding the assessment process for the tribe but no further correspondence or plans for reopening the assessment process were provided.¹⁹⁸

During the spring 2016, the Standing Rock tribe gained support from the U.S. Environmental Protection Agency and from the U.S. Department of Interior. The latter recommended a full Environmental Impact Statement for the first time in March 2016. The U.S. Environmental Protection Agency criticized the draft Environmental Assessment in January 2016 and addressed the risk of a possible oil leak and its consequences on the tribe's water supply again on a letter sent in March 2016. Moreover, the U.S. Environmental Protection Agency strongly recommended a further analysis and a plan for measures in a case of emergency as well as consideration of alternatives that would minimize the risk posed for the water supply. Nevertheless, the U.S. Environmental Protection Agency never demanded a full Environmental Impact Assessment. Instead, it recommended already in January that U.S. Army of Corps' Engineers would issue a statement of mitigated Finding of No Significant Impacts.¹⁹⁹

The final Environmental Assessment and a mitigated Finding of No Significant Impact were issued on July 25, 2016²⁰⁰. Cheyenne River tribe joined the Standing Rock tribe's complaint on August 10, and it also filed its own complaint against the U.S. Army of Corps' Engineers. The complaint

¹⁹⁶ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 2016 WL 4033936 (D.D.C.), at para 102.

¹⁹⁷ *Ibid.*, at para 103.

¹⁹⁸ *Ibid.*, at paras 104–109.

¹⁹⁹ *Ibid.*, at paras 119–121, *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 255 F. Supp. 3d 101, 115–116 (D.D.C. 2017), WL 2573994.

²⁰⁰ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 2016 WL 4033936 (D.D.C.) at para 69.

was amended on September 8. Similarly, to the Standing Rock tribe, the Cheyenne River tribe pleaded claims under National Historic Preservation Act, the National Environmental Policy Act, the Clear Water Act, and the Rivers and Harbors Act. Furthermore, they claimed that the defendant had breached trust responsibility and violated Flood Control Act and Administrative Procedure Act.²⁰¹

The District Judge James E. Boasberg denied the motion on September 9, 2016. In his memorandum opinion he held that the tribe failed to present enough evidence for the case. Moreover, Boasberg held that the tribe failed to justify that the damages caused for their important cultural resources could have been prevented by prohibiting the actions of the U.S. Army of Corps' Engineers.²⁰² On the same day, the Department of Justice, the Department of the Army, and the Department of the Interior released a joint statement as a press release. The U.S. Army stated that it will not authorize construction work on the Lake Oahe site until it has determined whether its previous decisions met the demands of National Environmental Policy Act and other federal laws. In addition, it requested Dakota Access LLC to halt construction work within 20 miles of the Lake Oahe site. All parties involved wished that the protests would remain nonviolent. Moreover, the parties invited the Oceti Sakowin to a formal government-to-government consultation regarding, firstly, a future co-operation on reviews and decisions related to infrastructure and the protection of tribal lands, resources and treaty rights, and, secondly, new legislation proposals and urgent improvements to the current statutory framework in order to establish a more effective venue for the future co-operation between the tribes and the federal authorities.²⁰³

2.4.4 Oceti Sakowin and American Environmentalists Join Their Forces

Standing Rock Tribal Council Chairman David Archambault II continued to raise awareness on the environmental threat in North and South Dakota during the spring 2016, and young people organized their own campaign on social media²⁰⁴. According to Estes, LaDonna Bravebull Allard, Joye Braun, Jasilyn Charger, Joseph White Eyes from Cheyenne River, and Wiyaka Eagleman from Standing Rock organized Sacred Stone Camp on April 1, 2016, and members of the Oceti Sakowin came to show support for the camp. The founders of the camp met with the U.S. Army of Corps' Engineers and expressed their objection to the pipeline. By the end of August, members from more than 90

²⁰¹ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 239 F. Supp. 3d 77, 81 (D.D.C. 2017), WL 908538.

²⁰² *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4 (D.D.C. 2016), WL 4734356.

²⁰³ The U.S. Department of Justice, "Joint Statement from the Department of Justice, the Department of the Army and the Department of the Interior regarding Standing Rock Sioux Tribe V. U.S. Army Corps of Engineers," <https://www.justice.gov/opa/pr/joint-statement-department-justice-department-army-and-department-interior-regarding-standing> (accessed February 20, 2020).

²⁰⁴ Estes, *Our History is the Future: Standing Rock Versus the Dakota Access Pipeline, and the Long Tradition of Indigenous Resistance* (London: Verso, 2019), 52.

indigenous nations were present, and by November that number had increased to nearly 400. Non-indigenous peoples from all parts of the world came to Standing Rock to show their solidarity and to offer their help for the Oceti Sakowin.²⁰⁵ Peaceful demonstrations occurred almost daily from August to October. They began from the Oceti Sakowin Camp and moved north to a site on which the pipeline crossed Highway 1806.²⁰⁶

The demonstration camps lacked running water and electricity. Participating guests were asked to be as self-sufficient as possible and, if possible, bring donations with them. A wish list was published on the Internet along with the instructions for the arriving guests. Among the most needed equipment were, for instance, batteries and generators. According to Estes, free meals were offered from 13 camp kitchens, and 6 medic tents provided health care for those in need. The organizers also accepted clothes, blankets, sleeping bags, and tents as donations and these were distributed forward for the demonstrators.²⁰⁷

On August 15, 2016, David Archambault II made a worldwide appeal for all indigenous peoples to issue proclamations, resolutions and letters of support in order to help Standing Rock to raise awareness on the situation in North and South Dakota.²⁰⁸ On the same day Dakota Access LLC filed a lawsuit seeking an injunction against David Archambault II for interfering with the construction. The lawsuit was dismissed on September 19. A conflict escalated between the protesters and the Morton County law enforcement because on August 25 the governor Jack Dalrymple declared a state of emergency across several counties. The next day David Archambault II was arrested during a peaceful demonstration on the construction area near Highway 1806.²⁰⁹ Next week the tribe's elder Tim Mentz Sr. and other tribal cultural resource management experts identified historic properties on the construction site and on September 2 they informed the federal court about the discovery requesting an immediate action to protect the site. Next day the construction workers removed the topsoil of the burial area.²¹⁰

²⁰⁵ Nick Estes, *Our History is the Future: Standing Rock Versus the Dakota Access Pipeline, and the Long Tradition of Indigenous Resistance* (London: Verso, 2019), 51, 57.

²⁰⁶ *Ibid.*, 57.

²⁰⁷ *Ibid.*, 59.

²⁰⁸ Indian Country Today, "Native Nations Rally in Support of Standing Rock Sioux," Indian Country Today, <https://newsmaven.io/indiancountrytoday/archive/native-nations-rally-in-support-of-standing-rock-sioux-mlt8Ck6mgUajgGp9x1OqyA/>

²⁰⁹ Estes, *Our History is the Future: Standing Rock Versus the Dakota Access Pipeline, and the Long Tradition of Indigenous Resistance* (London: Verso, 2019), 48.

²¹⁰ Nick Estes, *Our History is the Future: Standing Rock Versus the Dakota Access Pipeline, and the Long Tradition of Indigenous Resistance* (London: Verso, 2019), 48–49.; Indian Country Today, "Standing Rock Sioux Tribe Condemns Destruction and Desecration of Burial Grounds," Indian Country Today, <https://newsmaven.io/indiancountrytoday/archive/standing-rock-sioux-tribe-condemns-destruction-and-desecration-of-burial-grounds-tbGDUq4PW0aOVUZEiVIweA/>

The law enforcement established a checkpoint on Highway 1806 on October 24, 2016. Its purpose was to prevent Water Protectors from leaving from or arriving to Standing Rock past the construction area. The stretch of highway from Cannon Ball to Fort Rice remained totally closed for Water Protectors until March 15, 2017. Instead, residents of Fort Rice and employees of Dakota Access LLC were allowed to use this route during the blockage. The blockade isolated the camps from the facilities provided by the local community in North Dakota, i.e. the blockade made it more difficult for residents of Standing Rock to seek medical care, purchase necessary supplies, or otherwise engage in commerce. Nor they could visit family members living north from Standing Rock, share news from the situation in Standing Rock, or give statements to the media. Furthermore, the law enforcement had set up checkpoints on the roads surrounding the camps, and these impeded daily routines of Standing Rock.²¹¹

Young people were particularly active on the demonstration camps, and in July they organized a run from North Dakota to Washington D.C. in order to deliver a petition with 160.000 signatures opposing Dakota Access Pipeline. The petition was personally delivered to the White House and for the U.S. Army of Corps' Engineers. On November 2, President Barack Obama petitioned for respecting Native American Indigenous culture. He suggested that the pipeline would be rerouted once again but his act of solidarity came too late, and, on the other hand, he obviously was unaware of the situation in Standing Rock by the time of his statement. The construction work had proceeded, and, according to Estes, by the time of the President Obama's suggestion the construction site was less than a half mile from the river. Moreover, the protests had then already escalated into a serious confrontation, and the situation got worse on November 20 when more than 200 peaceful protestors suffered injuries caused by the law enforcement. Police used water cannons, pepper spray, tear gas, rubber bullets, bean bag rounds and stun grenades against the protestors. One woman lost a vision from her eye and another suffered severe injuries to her arm. In most cases, the injuries were hypothermia and exposure to chemicals from the weapons.²¹²

By December, the tribe grew tired to the constant influx of outsiders to the reservation and a possible threat these could pose to the Oceti Sakowin, and David Archambault II had to ask the demonstrators to leave the area. Some groups refused to leave, and the situation escalated once again when the President Donald Trump expedited the environmental review process in January 2017, and,

²¹¹ Columbia Law School, "Standing Rock Litigation | Contemporary Critical Thought," Columbia University, <https://cccct.law.columbia.edu/content/standing-rock-litigation> (accessed February 28, 2020).

²¹² Estes, *Our History is the Future: Standing Rock Versus the Dakota Access Pipeline, and the Long Tradition of Indigenous Resistance* (London: Verso, 2019), 53–55.

as a countermove, a Standing Rock activist, Chase Iron Eyes organized the Last Child Camp to reclaim treaty land. Law enforcement soon raided the camp, and 76 demonstrators were arrested. Tensions between the remaining demonstrators and the Standing Rock Tribal Council increased in February when the council and Cannon Ball District gave a resolution that the Sacred Stone Camp and the Oceti Sakowin Camp had to be evacuated. Eventually, the tribe had to ask help from the Bureau of Indian Affairs and from the law enforcement to remove remaining protesters. The remaining camps were evacuated on February 22.²¹³

2.4.5 Cheyenne River Pleads Claims under Religious Freedom Restoration Act

U.S. Army of Corps' Engineers considered the conduct of the project as promised in the joint statement released on September 9, 2016. On November 14, they admitted that further discussions and analysis with the tribe were necessary, and the Standing Rock tribe was invited to assess the options for the pipeline route on the Lake Oahe site. It seems that there were controversial opinions and conclusions regarding the need of a further analysis. On December 4, Assistant Secretary of the Army for Civil Works Jo-Ellen Darcy issued a memorandum for the Commander of the U.S. Army of Corps stating that an easement concerning the permission to cross Lake Oahe on the proposed location would not be granted. Darcy strongly recommended that an Environmental Impact Statement would be prepared, and she published in a Federal Register a notice on this intent on January 18, 2017.²¹⁴ On the other hand, the Commander of the Omaha District, Colonel John Henderson met the Standing Rock tribe in the beginning of December, and immediately after that meeting he recommended that U.S. Army of Corps' Engineers should grant an easement to cross Lake Oahe. He recommended this action despite the fact that the purpose of the meeting was to review the tribe's concerns and discuss conditions that could be imposed on an easement to prevent or diminish the risk of spill or rupture. Moreover, Colonel Henderson must have been aware of the expert report that questioned the estimated volume of a possible oil leak presented in the Environmental Assessment. That expert report was provided by the Oglala tribe.²¹⁵

Donald Trump took presidential office on January 20 and issued a presidential memorandum regarding Dakota Access Pipeline project on January 24, 2017. This memorandum urged U.S. Army of Corps' Engineers to reconsider its plans regarding the project and either modify or rescind its memorandum. This changed the course of events, and U.S. Army of Corps' Engineers issued an

²¹³ Nick Estes, *Our History is the Future: Standing Rock Versus the Dakota Access Pipeline, and the Long Tradition of Indigenous Resistance* (London: Verso, 2019), 63–64.

²¹⁴ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 239 F. Supp. 3d 77, 81–82 (D.D.C. 2017), WL 908538.

²¹⁵ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 255 F. Supp. 3d 101, 118 (D.D.C. 2017), WL 2573994.

easement for the Lake Oahe site on February 8, 2017.²¹⁶ The final easement contained 36 conditions to diminish the risk of an oil spill on Lake Oahe and otherwise addressed the Standing Rock tribe's concerns²¹⁷. Subsequently, Cheyenne River filed a motion for preliminary injunction and an application for a temporary restraining order²¹⁸. The Standing Rock tribe joined the temporary restraining order application²¹⁹. The purpose was to prohibit the issued easement. Cheyenne River claimed that the pipeline would violate Religious Freedom Restoration Act, which impedes the government to substantially burden individual's exercise of religion except when a compelling governmental interest exists. In an exceptional case, the government must use the least restrictive means.²²⁰

The Cheyenne River tribe asserted that an oil pipeline beneath the Lake Oahe would render the waters in the area unsuitable for religious sacraments. The Standing Rock tribe had previously discussed this matter on a letter to Jo-Ellen Darcy on September 22, 2016. Despite that the Cheyenne River tribe had to explain why it addresses this matter after the official consultations. The tribe explained that proper consultations were never accomplished, and the tribe had believed that a review process announced by Ms. Darcy would be an opportunity to address the concerns related to religious matters.²²¹ On his memorandum opinion issued March 7, 2017, the District Judge, James E. Boasberg held that the tribe failed to prove that a grant of easement would substantially burden a free exercise of religion or cause consequences that would prevent a free exercise of religion. Moreover, the judge noted that the pipeline is constructed on a privately owned land and under these circumstances he denied the motion. The court had denied the application for a temporary restraining order appealing on similar reasons in a hearing held on February 13, 2017.²²² The pipeline was completed in April 2017 and taken into operation in June.

2.4.6 Environmental Concerns Are Acknowledged after the Project Is Accomplished

The Standing Rock tribe filed an instant motion for a partial summary judgement against the U.S. Army Corps' of Engineers on February 14, 2017. The Cheyenne River tribe joined the motion.²²³ This time they explicitly addressed environmental concerns pleading claims under Administrative

²¹⁶ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 239 F. Supp. 3d 77, 82 (D.D.C. 2017), WL 908538.

²¹⁷ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 255 F. Supp. 3d 101, 120 (D.D.C. 2017), WL 2573994.

²¹⁸ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 239 F. Supp. 3d 77, 82 (D.D.C. 2017), WL 908538.

²¹⁹ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 255 F. Supp. 3d 101, 120 (D.D.C. 2017), WL 2573994.

²²⁰ U.S. Congress, House, *Religious Freedom Restoration Act of 1993*. HR 1308, 103rd Cong., 1st sess., introduced in House March 11, 1993, <https://www.congress.gov/103/bills/hr1308/BILLS-103hr1308enr.pdf>.

²²¹ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 239 F. Supp. 3d 77, 86–87 (D.D.C. 2017), WL 908538.

²²² *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 239 F. Supp. 3d 77, 89, 83 (D.D.C. 2017), WL 908538.

²²³ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 255 F. Supp. 3d 101, 120 (D.D.C. 2017), WL 2573994.

Policy Act, treaty rights, trust obligations of the United States, and previously mentioned National Environmental Policy Act and Rivers and Harbors Act as well as Mineral Leasing Act.²²⁴

The District Judge James E. Boasberg issued a memorandum opinion on June 14, 2017. It is noteworthy that at this stage the judicial discourse used in the memorandum opinion changed substantially. Firstly, the District Judge James E. Boasberg acknowledged the concerns of the plaintiff, and instead of doubting Tribal Historic Preservation Officers' commitment to the case, he admitted that Standing Rock responded promptly to the requests of the U.S. Army of Corps' Engineers.²²⁵ Secondly, the memorandum opinion explicitly stated that Lake Oahe is the main water supply for Standing Rock and Cheyenne River, and without a clean water the operations of governmental, educational and health care institutions would be endangered. In addition, agriculture and industries in Standing Rock are also significantly dependent on the waters of the Lake Oahe.²²⁶ Thirdly, previous statements from the Department of Interior and the U.S. Environmental Protection Agency were now taken seriously into account. According to the initial complaint filed by the Standing Rock tribe, U.S. Environmental Protection Agency sent comments on the draft Environmental Assessment on January 8 and on March 11, 2016 emphasizing concerns related to the tribe's water supply²²⁷. Those concerns were completely overlooked in the first memorandum opinion by the District Judge James E. Boasberg but at this stage he had changed his opinion. Finally, the memorandum opinion confirmed that U.S. Army of Corps managed to fulfil the requirements of the Nationwide Permit 12 process and the Rivers and Harbors Act. However, it strongly suggested that U.S. Army of Corps' Engineers, in fact, failed to grant an easement required by the Mineral Leasing Act. Consequently, Dakota Access LLC initially lacked appropriate permits to construct a pipeline under the Lake Oahe.²²⁸

The District Judge James E. Boasberg held that U.S. Army of Corps failed to adequately assess both the risk of an oil spill, which was addressed in expert reports, and the impact of an oil spill on the Oceti Sakowin's fishing and hunting treaty rights. Furthermore, the judge held that the area of potential environmental effects determined during the planning of the construction work was arbitrary.²²⁹ The court demanded that U.S. Army of Corps' Engineers should reconsider the insufficient sections of the Environmental Analysis²³⁰. As a remedy, District Court requested a briefing from both parties on whether to vacate Environmental Assessment and easement granted for the pipeline²³¹.

²²⁴ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 255 F. Supp. 3d 101 (D.D.C. 2017), WL 2573994.

²²⁵ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 255 F. Supp. 3d 101, 115 (D.D.C. 2017), WL 2573994.

²²⁶ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 255 F. Supp. 3d 101, 114 (D.D.C. 2017), WL 2573994.

²²⁷ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 2016 WL 4033936 (D.D.C.) at paras 115–120.

²²⁸ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 255 F. Supp. 3d 101, 116 (D.D.C. 2017), WL 2573994.

²²⁹ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 255 F. Supp. 3d 101 (D.D.C. 2017), WL 2573994.

²³⁰ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 255 F. Supp. 3d 101, 112 (D.D.C. 2017), WL 2573994.

²³¹ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 282 F. Supp. 3d 91 (D.D.C. 2017), WL 4564714.

After these briefings, in his memorandum opinion issued in October 2017, the District Judge James E. Boasberg held that U.S. Army of Corps' Engineers actions were not so reprehensible that the decisions to issue an Environmental Assessment and a statement of mitigated Finding of No Significant Impact would have been unlawful. According to Boasberg, the risk of an oil spill under the Lake Oahe is minimal and potential consequences of the oil leak are in part mitigated by relocating the water intake plant approximately 50 miles further downstream from the Lake Oahe crossing. The Standing Rock tribe claimed, in turn, that the old water intake plant would still be in operation but the judge held that the mitigation plan was a sufficient action to address concerns related to the Standing Rock tribe's water supply.²³² Furthermore, the court discussed the economic consequences of a vacatur, which were emphasized in the briefing by the U.S. Army of Corps' Engineers and denied in the briefing by the Standing Rock tribe. However, the court stated that economic considerations were irrelevant in this case since the analysis of the actions by the U.S. Army of Corps' Engineers in prevailing circumstances supported a remand without a vacatur.²³³

After this decision Standing Rock and Cheyenne River sought interim measures in order to monitor the pipeline in operation while U.S. Army of Corps' Engineers would revise the Environmental Assessment. The court agreed. In his memorandum opinion issued in December 2017 the District Judge James E. Boasberg held that a request for a monitoring was appropriate due to a previous oil leak from the Keystone Pipeline in South Dakota, and he encouraged all involved parties to co-operate together in order to prevent oil spills on the Lake Oahe site. Firstly, the court ordered that U.S. Army of Corps' Engineers, Dakota Access LLC and Standing Rock and Cheyenne River tribes must coordinate and provide together a response plan for an oil spill accident on the Lake Oahe and that this plan should be filed by April 1, 2018.²³⁴ Secondly, the court ordered that Dakota Access LLC must choose an independent third-party auditor in consultation with the tribes, and the results of the audit process should be filed by April 1, 2018. Finally, the court required that Dakota Access LLC should report bi-monthly the status of the pipeline during the remand process.²³⁵

Initially, the remand process should have been completed by April 1, 2018 but it continued until August 2018 and the analysis was completed in February 2019²³⁶. Meanwhile, Dakota Access

²³² *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 282 F. Supp. 3d 91, 100–01 (D.D.C. 2017), WL 4564714.

²³³ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 282 F. Supp. 3d 91, 108 (D.D.C. 2017), WL 4564714.

²³⁴ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 280 F. Supp. 3d 187, 190–191 (D.D.C. 2017), WL 6001726.

²³⁵ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 280 F. Supp. 3d 187, 190–191 (D.D.C. 2017), WL 6001726.

²³⁶ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, No. CV 16-1534 (JEB), 2019 WL 2028709, at *1 (D.D.C. May 8, 2019); *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, No. CV 16-1534 (JEB), 2020 WL 1441923, at *4 (D.D.C. Mar. 25, 2020).

LLC filed a motion for a protective order in which it requested the court to classify certain parts of eleven documents from the public in order to prevent this information to be used for damaging the pipeline. A damage could cause an environmental catastrophe. The court decided that Dakota Access LLC largely failed to present a good cause for a protective order. Nevertheless, the court ordered parts of five of the proposed eleven documents to be classified.²³⁷

On November 13, 2017, Yankton tribe and Robert Flying Hawk filed an instant motion for a partial summary judgement pleading claims under National Environmental Policy Act, National Historic Preservation Act, Treaty of Fort Laramie with the United States in 1851, federal trust responsibilities towards indigenous peoples, and the United Nations Declaration on the Rights of Indigenous Peoples. The court held that the Yankton tribe's claims were similar to those which the Standing Rock tribe had presented earlier during the judicial process and that those had been already then deemed deficient by the court. Moreover, the court held that the United Nations Declaration on the Rights of Indigenous Peoples is not a legally binding document. Thus, it does not create a cause for federal action.²³⁸ The claims pleaded under National Historic Preservation Act were, in turn, held moot since the pipeline was already completed²³⁹. Nevertheless, the court reminded Yankton tribe that U.S. Army of Corps' Engineers had requested the tribe to provide comments during the remand process on a letter dated on October 20, 2017. The judge encouraged the tribe to engage in this dialogue in order to address their remaining concerns regarding the Environmental Assessment.²⁴⁰

In April 2018, the District Judge James E. Boasberg denied another request made by Standing Rock and Cheyenne River tribes regarding the remand process. The tribes claimed that U.S. Army of Corps' Engineers had violated the conditions for the remand process, and essential information had been hidden from the representatives of the tribes and, consequently, the tribes had been unable to evaluate the proposals for future action. Furthermore, the tribes claimed that the third-party auditor chosen for the process did not meet the needs for an independent actor. Obviously, another dispute regarding communication matters had occurred between the parties and the judge held that the tribes may address their concerns regarding the remand process in the post-remand briefing.²⁴¹

In January 2019, the District Judge James E. Boasberg denied the Oglala tribe's motion for amend a complaint which was filed in February 2017. The tribe wished to add an allegation that U.S.

²³⁷ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 249 F. Supp. 3d 516, 517–18 (D.D.C. 2017), WL 1316918.

²³⁸ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 301 F. Supp. 3d 50, 57, 59–60 (D.D.C. 2018), WL 1385660.

²³⁹ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 301 F. Supp. 3d 50, 62–63 (D.D.C. 2018), WL 1385660.

²⁴⁰ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 301 F. Supp. 3d 50, 75 (D.D.C. 2018), WL 1385660.

²⁴¹ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, (D.D.C. 2018), WL 1967112.

Army of Corps' Engineers had violated the National Environmental Policy Act by withdrawing a notice of intent to prepare an Environmental Impact Statement, and, instead, granted an easement for Dakota Access LLC to build a pipeline under Lake Oahe.²⁴² The judge held that the amendment was made too late and that the tribe had already addressed these allegations when appearing as amicus for the Standing Rock tribe's motion for summary judgement. That case was ruled already in June 2017. Nevertheless, the judge admitted that this matter was not explicitly mentioned in the memorandum opinion.²⁴³

Next, the Standing Rock tribe claimed that U.S. Army of Corps' Engineers failed to include relevant supplementary documents in its remand analysis and to prepare a complete list of cited sources for further review.²⁴⁴ Moreover, the tribe requested that a redacted 3D illustration of the pipeline should be included in the analysis²⁴⁵. In his memorandum opinion, dated in May 2019, the judge held that no additional documents were required for the analysis. Nevertheless, the court requested the tribe to file a notice containing a list of sources that were cited in the analysis without a mention in the bibliography, and after that U.S. Army of Corps' Engineers should give an answer to the tribe and note if the list contains sources that must be excluded from the record.²⁴⁶ In addition, the court ordered that U.S. Army of Corps' Engineers submit a document explaining the legal background and reasons for redacting a 3D illustration from the analysis.²⁴⁷

2.4.7 Remand Process Reveals Necessity of Environmental Impact Statement

Finally, after the remand process, the tribes filed a motion for a summary judgement and once again pleaded claims under National Environmental Policy Act, National Historic Preservation Act, and Mni Wiconi Act. This time, the court held that U.S. Army of Corps' Engineers' decision to grant an easement to build a pipeline under the Lake Oahe was unlawful since the decision was made despite adverse expert information regarding leak-detection systems, operator safety records, worst-case discharge, and the impact of weather conditions. In a memorandum opinion issued on March 25, 2020, the court required U.S. Army of Corps' Engineers to prepare an Environmental Impact Statement. In

²⁴² *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, No. CV 16-1534 (JEB), 2019 WL 161950, at *1 (D.D.C. Jan. 10, 2019).

²⁴³ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, No. CV 16-1534 (JEB), 2019 WL 161950, at *2 (D.D.C. Jan. 10, 2019).

²⁴⁴ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, No. CV 16-1534 (JEB), 2019 WL 2028709, at *3 (D.D.C. May 8, 2019).

²⁴⁵ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, No. CV 16-1534 (JEB), 2019 WL 2028709, at *5 (D.D.C. May 8, 2019).

²⁴⁶ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, No. CV 16-1534 (JEB), 2019 WL 2028709, at *3 (D.D.C. May 8, 2019).

²⁴⁷ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, No. CV 16-1534 (JEB), 2019 WL 2028709, at *6 (D.D.C. May 8, 2019).

deciding this case, the court applied a recent case, *National Parks Conservation Association v. Seimonite*, which was ruled by the court of Appeals, D.C. Circuit in 2019.²⁴⁸ In that case, it was explicitly mentioned that in evaluating environmental impacts, an agency must consider the context and the intensity of the action. The regulations list ten factors to help determine the intensity of the action, and if any of the consequences or conditions mentioned in that list are met during the evaluation, an Environmental Impact Statement should be prepared. In this case, the relevant factor was “the degree to which the effects on the quality of the human environment are likely to be highly controversial.”²⁴⁹ Furthermore, at this stage, the court acknowledged that U.S. Army of Corps’ Engineers’ right of action is regulated by the Executive Order 12986 according to which “each Federal Agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions.”²⁵⁰ This policy should be implemented “[t]o the greatest extent practicable and permitted by law.”²⁵¹

In addition, the court noted that National Environmental Policy Act requires an agency to consider how the consequences of the action will affect the tribe’s treaty rights. In this case, U.S. Army of Corps’ Engineers must consider how the pipeline will affect hunting and fishing resources in North and South Dakota.²⁵² Nevertheless, the principal matter at this stage were numerous concerns addressed during the remand process. The most alarming issue was the pipeline’s leak-detection system. The experts concluded that most likely the system would be dysfunctional, and it was acknowledged that the system was not designed to detect slow leaks at all. In addition, U.S. Army of Corps’ Engineers seemed to have an over-optimistic view towards the pipeline in function. When assessing the likelihood of future spills, the agency had neglected the operator’s history of serious oil spills, and, on the other hand, the worst-case-scenario presented in the analysis was too optimistic compared to the reality.²⁵³

²⁴⁸ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, No. CV 16-1534 (JEB), 2020 WL 1441923, at *1 (D.D.C. Mar. 25, 2020)

²⁴⁹ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, No. CV 16-1534 (JEB), 2020 WL 1441923, at *2 (D.D.C. Mar. 25, 2020)

²⁵⁰ The U.S. President, Executive Order, “Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order 12986 of February 11, 1994,” *Federal Register* 59, no 32 (February 16, 1994): 7629.

²⁵¹ *Ibid.*

²⁵² *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, No. CV 16-1534 (JEB), 2020 WL 1441923, at *2 (D.D.C. Mar. 25, 2020).

²⁵³ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, No. CV 16-1534 (JEB), 2020 WL 1441923, at *16 (D.D.C. Mar. 25, 2020).

The Standing Rock tribe as well as the Oglala tribe and the Yankton tribe separately claimed that U.S. Army of Corps' Engineers failed to consult the tribes properly before issuing Environmental Assessment and a statement of mitigated Finding of No Significant Impact. The court held that those claims were obviated since the court had determined that U.S. Army of Corps' Engineers' decisions regarding an easement were invalid. The District Judge James E. Boasberg held that a favourable judgement on those claims would not alter the result of this case significantly, or offer any greater relief for the Plaintiff than the holdings regarding the above mentioned dispute on granting an easement on the Lake Oahe site.²⁵⁴

Furthermore, the tribes requested that the court would make a revision to its prior holding regarding claims under National Historic Preservation Act. In March 2018, the District Judge James E. Boasberg held that the tribes' claims were moot since the pipeline was already completed. According to the tribes, their previous claims fall into an exception to the mootness doctrine because a full litigation of the controversial action was impossible due to the action's short duration, and there is a sound reason to believe that the same Plaintiff will be subject to a similar action in the future. The court held that this case makes no exception to the mootness doctrine because at this stage the tribes cannot provide evidence that a similar case would affect the tribes in the future.²⁵⁵

In addition, The Oglala tribe pleaded claims under Mni Wiconi Act according to which "the United States has a trust responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Pine Ridge Indian Reservation."²⁵⁶ The purpose of the act was e.g. to authorize construction of the Mni Wiconi Rural Water Supply Project in 1988 and, consequently, guarantee sufficient water supplies for Pine Ridge Reservation in South Dakota. By the time of enacting this statute the available water supplies did not meet minimum health and safety standards.²⁵⁷ The court held that U.S. Army of Corps' Engineers did not breach trust duty or any fiduciary duty under Mni Wiconi Act. The court believed that an oil spill would not contaminate Pine Ridge's drinking water since the water intake plant is located 205 miles downstream from the Lake Oahe.²⁵⁸

²⁵⁴ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, No. CV 16-1534 (JEB), 2020 WL 1441923, at *16 (D.D.C. Mar. 25, 2020).

²⁵⁵ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, No. CV 16-1534 (JEB), 2020 WL 1441923, at *17 (D.D.C. Mar. 25, 2020).

²⁵⁶ U.S. Congress, House, *Mni Wiconi Project Act of 1988*. HR 2772, 100th Cong., 1st sess., introduced in House June 24, 1987, <https://www.govinfo.gov/content/pkg/STATUTE-102/pdf/STATUTE-102-Pg2566.pdf>.

²⁵⁷ *Ibid.*

²⁵⁸ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, No. CV 16-1534 (JEB), 2020 WL 1441923, at *19 (D.D.C. Mar. 25, 2020).

Finally, the court reopened the discussion whether a vacatur of the easement would be an appropriate remedy since the remand process revealed faults in the U.S. Army of Corps' Engineers' actions. I.e. another briefing on this matter shall occur.²⁵⁹

3 Research on Environmental and Power Discourses

This research implements Critical Discourse Analysis which is developed by Norman Fairclough. The method is based on the ideas of social constructionism. Social constructionism, in turn, is a theoretical framework which has inspired several practical applications for scientific purposes. Furthermore, during this research project, it became necessary to utilize certain theories and concepts from the field of social psychology in order to explain certain phenomena tracked from the research material. This chapter shall present theoretical premises, research questions, and research material used in this research project. Furthermore, ethical aspects of the research on indigenous matters will be considered in the last subchapter of this section.

3.1 Concepts and Definitions

This subchapter will discuss essential concepts and definitions for this research project, namely discourse, power, ideology, hegemony, and environmental protection. Norman Fairclough's Critical Discourse Analysis is based on Foucauldian view on discourses, power, and ideology. Philosopher Michel Foucault, in turn, has taken influences from philosopher Antonio Gramsci's works and particularly from his ideas on hegemony and resistance.

On the other hand, it must be noted that the works of Antonio Gramsci have been criticized and contested as well. For instance, Peter Ives states that, for some researchers, Gramsci's use of language is too vague, and his ideas are difficult to comprehend without some knowledge on Italian history. In addition, Ives criticizes theories that utilize Gramsci's ideas. He complains that, for instance, Gramsci never wrote or mentioned *counter-hegemony* in his most famous work *Quaderni del carcere* even if this concept is widely embraced by scholars who wish to use Gramsci's works on research projects that focus on linguistics and media.²⁶⁰ Despite his criticism, Ives seems to have a positive stance towards Gramsci since he had made efforts, firstly, to develop his own interpretation on Gramsci's language, and, secondly, to develop a comprehensive theory on hegemony.

And, on the other hand, the contextualization of Gramsci's works reveals that he was heavily censored while writing his works in prison, and therefore, he had to use euphemisms and alternative

²⁵⁹ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, No. CV 16-1534 (JEB), 2020 WL 1441923, at *19 (D.D.C. Mar. 25, 2020).

²⁶⁰ Peter Ives, *Language and Hegemony in Gramsci* (London: Pluto Press, 2015), 65–66, 68. doi:10.2307/j.ctt183q4d3.

expressions in order to describe his ideas²⁶¹. Furthermore, and as Ives noted above, Gramsci's concepts of hegemony and ideology were developed when he considered Italy's political history²⁶², and his successors then used these concepts in cultural studies.

Discourse is defined as an established form of language use, which supports and preserves prevailing culture by reproducing and reshaping conventional ways of thinking. Discourses steer the process by which human beings give a meaning for entities and phenomena existing in their reality. Discourses bear ideology and power, and the use of a certain discourse reproduces power relations embedded in the society. Thus, the use of a certain discourse always has an influence on the community.²⁶³ According to Michel Foucault, discourses are linguistic and social practices which have an effect on the object.²⁶⁴ Various discourses can be attached to a particular topic, and each discourse claims to be the truth about the object²⁶⁵. Knowledge and power are bound up with discourses, and, following the works of Antonio Gramsci, Michel Foucault emphasizes that a certain discourse puts its object in a certain position. I.e. a certain discourse gives a certain position and agency for an individual, and power is bound up with the agency. On the other hand, rivalling discourses bear power as well, and, consequently, a prevailing discourse is always subject to contestation and resistance.²⁶⁶ Following these ideas, Norman Fairclough emphasizes that discourses represent various perspectives on the world, and an individual's perspective on the world is dependent on his or her positions in the society. On the other hand, discourses are a powerful tool in questioning and changing established ideas. Discourses can be used to produce projective imaginaries which support a change in the current societal system.²⁶⁷

As mentioned above, *power* is tied to discourses and positions. Michel Foucault notes that dominant practices are most effective when individuals willingly exercise them. I.e. well-established discourses and practices might be so self-evident for individuals that they do not recognize the power embedded in them. Furthermore, they do not recognize alternative practices which would contest the dominant discourse. Michel Foucault defines this phenomenon as the disciplinary power of a certain

²⁶¹ George Hoare and Nathan Sperber, *An Introduction to Antonio Gramsci – His Life, Thought and Legacy* (London: Bloomsbury, 2016), 21.

²⁶² *Ibid.*, 56–57.

²⁶³ Eero Suoninen, "Näkökulma Sosiaalisen Todellisuuden Rakentumiseen," in *Diskurssianalyysi: Teoriat, Peruskäsitteet, Käyttö*, eds. Arja Jokinen, Kirsi Juhila and Eero Suoninen (Tampere: Vastapaino, 2016), 235.

²⁶⁴ Michel Foucault, *The Archaeology of Knowledge & the Discourse on Language*, trans. A. M. Sheridan Smith (New York: Pantheon Books, [1972] 1982), 49.

²⁶⁵ Michel Foucault, *The Archaeology of Knowledge & the Discourse on Language*, trans. A. M. Sheridan Smith (New York: Pantheon Books, [1972] 1982), 218–219.; Vivien Burr, *Social Constructionism* (London: Routledge, 2015), 76.

²⁶⁶ Foucault, *The Archaeology of Knowledge & the Discourse on Language*, trans. Sheridan Smith (New York: Pantheon Books, [1972] 1982), 52–53.; Burr, *Social Constructionism* (London: Routledge, 2015), 80–81.

²⁶⁷ Norman Fairclough, *Analysing Discourse: Textual Analysis for Social Research* (New York: Routledge, 2003), 124.

discourse.²⁶⁸ Foucault's most famous works focus on the ideas related to power relations in the society. He notes, firstly, that the power implications of a certain discourse might be very complex. Secondly, he remarks that dominant discourses might lose their position in a society over a course of time. Thirdly, a certain discourse does not automatically belong to a certain political stance, or to a certain political ideology. A researcher's responsibility is to study carefully the research material and the context in order to be able to map the situation and which functions a discourse might have in it. And finally, Foucault warns researchers of making too quick assumptions about a causal relationship between the social conditions in a society and the emergence of a certain discourse. Certain conditions might support the use of certain representations and discourses, but a meticulous study is needed before a researcher can make conclusions about the case.²⁶⁹

The concepts of *ideology* and *hegemony*, in turn, are linked to power relations manifested in discourses. As mentioned above, these concepts are defined in this research project following Gramscian theory of ideology and hegemony. *Ideology* is defined in Gramscian terms as the very culture of the society and as an active political praxis which can manifest itself in progressive and reactionary forms. Ideology is subject to constant struggle within the world of culture. According to Hoare and Sperber, Gramsci distinguishes two types of ideology, namely historically organic ideology and arbitrary, rationalistic, or willed ideologies. Historically organic ideology refers to Marxism and other forms of ideology may exist as isolated phenomena in intellectual spheres but, according to Gramsci, those do not serve the aims of the collective actors and those cannot empower human masses.²⁷⁰

For Marxist Russian revolutionaries, *hegemony* referred to a class alliance between working class and peasantry. This alliance would be necessary to achieve a revolution. Gramsci redefined and broadened the concept of hegemony substantially. For him, hegemony denoted in its broadest sense to any manifestation of a political action and power represented by any social group in the political sphere. Gramsci emphasized cultural, moral, and cognitive aspects of hegemonic leadership. In general, Gramsci applied the concept of hegemony on various contexts in his writings, and usually the starting point was a specific historical inquiry. In the case of hegemony, it was the Italian *Risorgimento*. Gramsci then developed this concept by reconsidering it and applying it in other contexts.²⁷¹

²⁶⁸ Michel Foucault, *Power / Knowledge: Selected Interviews and Other Writings 1972–1977*, ed. Colin Gordon, trans. Colin Gordon, Leo Marshall, John Mepham and Kate Soper (New York: Pantheon Books, 1980), 26–27.; Burr, *Social Constructionism* (London: Routledge, 2015), 81.

²⁶⁹ Vivien Burr, *Social Constructionism* (London: Routledge, 2015), 88–90.

²⁷⁰ Hoare and Sperber, *An Introduction to Antonio Gramsci – His Life, Thought and Legacy* (London: Bloomsbury, 2016), 91–93.; Antonio Gramsci, *Selections from the Prison Notebooks of Antonio Gramsci*, eds. Quintin Hoare and Geoffrey Nowell Smith, trans. Quintin Hoare and Geoffrey Nowell Smith (London: Lawrence & Wishart, 1971), 376–377.

²⁷¹ Hoare and Sperber, *An Introduction to Antonio Gramsci – His Life, Thought and Legacy* (London: Bloomsbury, 2016), 118–119.

Gramscian hegemony initially denoted to a situation in which several social groups co-existed, and the power of a leading group was accepted by auxiliary groups. Nevertheless, two slightly different definitions appear in the writings of Gramsci. In one context he notes that the approval of auxiliary groups can be achieved via consent and coercion, and, in another context, he declares that coercion is necessary.²⁷² Moreover, Gramsci acknowledges that between consent and coercion exists third form of power, i.e. corruption and fraud, which may emerge if measures that reinforce hegemony do not deliver desirable results and if the use of force would be too risky²⁷³. George Hoare and Nathan Sperber conclude that both consent and coercion are recurring themes when Gramsci writes about hegemony, and these themes appear usually in combination and in dynamic interaction. A contemporary example of this interaction are modern Western democracies in which the state possesses legitimate means of coercion. These means are created and guarded by the government which, in turn, acquires its powers from the public who chooses the representatives to this electoral mechanism. Moreover, Hoare and Sperber remind that visible and obvious means of coercion become unnecessary in a society in which consensual institutional mechanisms manage to conceal the existence of these practices.²⁷⁴

As mentioned above, hegemony is related to the exercise of the leadership. For Gramsci, hegemony represented both a cognitive and a moral process which leads to ethical renewal. Hegemony is reinforced through practices of political negotiation and intellectual persuasion. It is built upon a dominant ideology, and, referring to Italian political history, Gramsci stated that intellectuals are the agents of the hegemony, and their duty is to promote the emergence of a civil society – as opposed to a dictatorship. He defined the work of hegemony as a transformation of culture. More precisely, he noted that the work of hegemony creates a new ideological terrain and new methods of knowledge. This process, in turn, will lead to a reform of the consciousness.²⁷⁵ According to Gramsci, all nations are continually experiencing processes of internal transformation and contestation. Hoare and Sperber refer to this phenomenon as a *passive revolution*²⁷⁶.

²⁷² George Hoare and Nathan Sperber, *An Introduction to Antonio Gramsci – His Life, Thought and Legacy* (London: Bloomsbury, 2016), 120. 122–123.; On necessary coercion see also Gramsci, *Selections from the Prison Notebooks of Antonio Gramsci*, eds. Hoare and Smith, trans. Hoare and Smith (London: Lawrence & Wishart, 1971), 263.

²⁷³ Hoare and Sperber, *An Introduction to Antonio Gramsci – His Life, Thought and Legacy* (London: Bloomsbury, 2016), 125.; See also footnote on Gramsci, *Selections from the Prison Notebooks of Antonio Gramsci*, eds. Hoare and Smith, trans. Hoare and Smith (London: Lawrence & Wishart, 1971), 80.

²⁷⁴ Hoare and Sperber, *An Introduction to Antonio Gramsci – His Life, Thought and Legacy* (London: Bloomsbury, 2016), 123–124.

²⁷⁵ George Hoare and Nathan Sperber, *An Introduction to Antonio Gramsci – His Life, Thought and Legacy* (London: Bloomsbury, 2016), 125–126.; Gramsci, *Selections from the Prison Notebooks of Antonio Gramsci*, eds. Hoare and Smith, trans. Hoare and Smith (London: Lawrence & Wishart, 1971), 365–367.

²⁷⁶ Hoare and Sperber, *An Introduction to Antonio Gramsci – His Life, Thought and Legacy* (London: Bloomsbury, 2016), 134–135.

Gramsci emphasized that hegemony is a socio-political process. It will be reinforced and reproduced through an educational relationship. Educational relationship refers to all existing relationships and practices in the society.²⁷⁷ The work of hegemony shall eventually produce an ethical society. According to Gramsci, the fundamental function of such ethical society “is to raise the population to a particular cultural and moral level, a level (or type) which corresponds to the needs of the productive forces for development, and hence, to the interests of the ruling classes.”²⁷⁸ In order to be able to reach this new ethical state, individuals must achieve self-consciousness which will lead to the emergence of the class consciousness²⁷⁹. Moreover, Gramsci predicted that an emerging ethical society decreases the necessity of coercive power. At this stage, the members of the society would act independently and think collectively.²⁸⁰

Gramsci notes that hegemonic struggle is a continuous process. Even those in power have to act in order to maintain their position. This principle applies to every dominant group regardless of their political stances and aspirations.²⁸¹ For Gramsci, hegemonic struggle is the very process through which power is exerted and operates in the society.²⁸²

In the context of this thesis, above mentioned keywords are linked to *environmental protection*. Environmental protection gained worldwide attention in the ‘50s and in the ‘60s but environmental movement has its roots in the second half of the 19th century. The first groups that promoted environmental protection emerged in Britain in the 1860s. In the United States, the first activist groups for environmental preservation were formed at the end of the 19th century. At this stage, their aim was to preserve spectacular natural areas as well as endangered wildlife and habitat on a charitable basis. Later environmentalists were concerned on economic matters and on the sustainable development as well. In the ‘60s people became aware of the human impact on the environment when the

²⁷⁷ George Hoare and Nathan Sperber, *An Introduction to Antonio Gramsci – His Life, Thought and Legacy* (London: Bloomsbury, 2016), 127–128.; Gramsci, *Selections from the Prison Notebooks of Antonio Gramsci*, eds. Hoare and Smith, trans. Hoare and Smith (London: Lawrence & Wishart, 1971), 350.

²⁷⁸ Antonio Gramsci, *Selections from the Prison Notebooks of Antonio Gramsci*, eds. Quintin Hoare and Geoffrey Nowell Smith, trans. Quintin Hoare and Geoffrey Nowell Smith (London: Lawrence & Wishart, 1971), 258.; Hoare and Sperber, *An Introduction to Antonio Gramsci – His Life, Thought and Legacy* (London: Bloomsbury, 2016), 129–130.

²⁷⁹ George Hoare and Nathan Sperber, *An Introduction to Antonio Gramsci – His Life, Thought and Legacy* (London: Bloomsbury, 2016), 130–131.; Gramsci, *Selections from the Prison Notebooks of Antonio Gramsci*, eds. Hoare and Smith, trans. Hoare and Smith (London: Lawrence & Wishart, 1971), 333.

²⁸⁰ Hoare and Sperber, *An Introduction to Antonio Gramsci – His Life, Thought and Legacy* (London: Bloomsbury, 2016), 137–138.; Gramsci, *Selections from the Prison Notebooks of Antonio Gramsci*, eds. Hoare and Smith, trans. Hoare and Smith (London: Lawrence & Wishart, 1971), 263.

²⁸¹ Hoare and Sperber, *An Introduction to Antonio Gramsci – His Life, Thought and Legacy* (London: Bloomsbury, 2016), 136.; Gramsci, *Selections from the Prison Notebooks of Antonio Gramsci*, eds. Hoare and Smith, trans. Hoare and Smith (London: Lawrence & Wishart, 1971), 57–58.

²⁸² Hoare and Sperber, *An Introduction to Antonio Gramsci – His Life, Thought and Legacy* (London: Bloomsbury, 2016), 136.

consequences of the use of synthetic pesticides and insecticides were made public. This new awareness on environmental matters inspired a new environmental movement which was concerned not only on the protection of endangered species but also on the survival of the humankind. New environmentalists aimed at direct political impact.²⁸³

3.2 Research Questions

Initially, the research interest of this project included two broader themes, namely indigenous perspective on environmental protection and on power relations in the context of the Dakota Access Pipeline project. Discourses produced in media texts were in the focus of the research project. Initial research questions were:

1. What kind of environmental discourses are constructed in the media texts written by the indigenous peoples?
2. What kind of power discourses are constructed in the media texts written by the indigenous peoples?
3. For which purposes environmental and power discourses are used in media texts?
4. In which socio-cultural contexts these discourses are connected to?

It is important to note that in the beginning of this project no one knew that the protests would continue in various forms for years. By the time of writing this chapter, the Oceti Sakowin's battle against the pipeline continues in the court room. Due to the relatively long timeframe of the protests and the number of various agents related to the events, many context-related questions emerged during this research process. Fortunately, answers for some of them were found by studying the history and the environmental conditions of Standing Rock but some questions remain unanswered. Future research might want to shed a light on the matters that cannot be covered in the scope of this thesis.

3.3 Research Material

The research material of this thesis consists of articles that are published on the web pages of *Indian Country Today* and whose topic is either Dakota Access Pipeline project or Stand with Standing Rock environmental movement. The research material was collected directly from the web page with the

²⁸³ McCormick, *Reclaiming Paradise: The Global Environmental Movement* (Bloomington: Indiana University Press, 1991), vii, 47–48.; Samuel P. Hays, *A History of Environmental Politics since 1945* (Pittsburgh: University of Pittsburgh Press, 2000), 26.; on the definitions for conservationism and environmentalism see also J. Donald Hughes, *An Environmental History of the World: Humankind's Changing Role in the Community of Life* (London: Routledge, 2009), 194.

help of a research function and using keywords “Standing Rock” and “Dakota Access Pipeline”. Research material consists of 46 articles published between August 2016 and February 2019. Most of these articles contain at least 500 words of body text and even the shortest articles included to the research material contain at least 280 words. The longest texts contain over 1 800 words of body text.

Most of the texts were reporting the events in Standing Rock accompanied with interviews of the key persons and witnesses of the events. A couple of texts were opinions related to the events and among the research material was also one open letter of support for Standing Rock. Only body text was analysed according to the principles of Critical Discourse Analysis. The headlines and captions were excluded from this analysis because those are particular text types and certain journalistic rules apply to them.

Indian Country Today is an independent daily digital platform, which focuses on the matters of Native American Indigenous peoples. It was founded as a weekly print newspaper called *The Lakota Times* by Tim Giago in 1981. The name of the publication changed to *Indian Country Today* in 1992. Six years later the newspaper was sold to the Four Directions, Inc, which is owned by the Oneida Nation of New York. The newspaper was transformed into weekly magazine in 2013. During the protests in Standing Rock the magazine was still published both in print and on the Internet. The Oneida Nation donated *Indian Country Today* to the National Congress of American Indians in October 2017. The print magazine was ceased and *Indian Country Today* re-emerged as a digital platform on February 28, 2018. The research material was imported from the platform in May 2019.

3.4 Research Method and Theoretical Framework

The research method of this project is Critical Discourse Analysis, which is developed by Norman Fairclough. Critical Discourse Analysis is created for research projects which focus on discourses presented in media texts. Discourses are researched by analysing the context of the texts, grammatical constructions, semantics, vocabulary, and phonological elements of the texts. In the first phase, the researcher identifies topics presented in the texts. Next, the textual content is studied once again in order to find the conventions according to which events, actors and patients are represented. A precise textual analysis is the core element of the method.²⁸⁴ In practice, the features of the texts determine how meticulous analysis is necessary before a researcher is able to pinpoint the discourses and make sound conclusions. In addition, the researcher might want to study the texts several times in order to be able to determine correctly the conventions used in texts. Finally, it is important to consider the effects of the discourses on the society.

²⁸⁴ Fairclough, *Analysing Discourse: Textual Analysis for Social Research* (New York: Routledge, 2003), 13, 28.

Norman Fairclough notes that language is socially determined in all its forms and manifestations. Broadly speaking, Fairclough distinguishes three manifestations for languages. Those are languages as social structures, languages as social practices, i.e. orders of discourse, and languages as social events, namely texts. Moreover, Fairclough focuses on the role of language in social practices and distinguishes discourses, genres, and styles as language's features in these practices.²⁸⁵ More specifically, Fairclough observes genres as ways of acting, discourses as ways of representing, and styles as ways of being.²⁸⁶

Fairclough elaborates some ideas of M.A.K. Halliday's systemic functional grammar further and inspired by Halliday's work, he distinguishes action, representation, and identification as the major types of a meaning in texts. In Critical Discourse Analysis, these elements are then linked together, and they form a basis for the analysis. Fairclough indicates that genres are linked to action, discourses are linked to representation, and styles are linked to identification. Studying the types of meaning is the starting point for Critical Discourse Analysis. The analysis of genres, discourses, and styles are at the centre of the research when a researcher studies the connections between the text and the social practices.²⁸⁷ Fairclough has introduced several themes and ideas which shall help a researcher to analyse these elements.

Critical Discourse Analysis is based on the ideas of social constructionism according to which reality is constructed in social relationships²⁸⁸. Human knowledge is historically and culturally specific, and categories, concepts and people's common understanding of the world are constructed and reproduced in the practices of human societies²⁸⁹. Researchers applying the ideas of social constructionism explore both the knowledge of a certain human society and how this knowledge is established as a reality in a social context²⁹⁰. Historically, language is seen as a principal means in constructing human social and psychological world, but more contemporary research explores non-verbal social practices and interaction as well. In general, social constructionism focuses on how a certain knowledge is achieved by individuals in social interaction.²⁹¹

²⁸⁵ Norman Fairclough, *Analysing Discourse: Textual Analysis for Social Research* (New York: Routledge, 2003), 24.

²⁸⁶ Ibid., 26.

²⁸⁷ Ibid., 27–28.

²⁸⁸ Peter L. Berger and Thomas Luckmann, *The Social Construction of Reality: A Treatise in the Sociology of Knowledge* (London: Penguin, 1971), 13.

²⁸⁹ Burr, *Social Constructionism* (London: Routledge, 2015), 4–5.

²⁹⁰ Berger and Luckmann, *The Social Construction of Reality: A Treatise in the Sociology of Knowledge* (London: Penguin, 1971), 15.

²⁹¹ Burr, *Social Constructionism* (London: Routledge, 2015), 10–11.; Margaret Wetherell and Jonathan Potter, "Discourse Analysis and the Identification of Interpretative Repertoires," in *Analysing Everyday Explanation: A Casebook of Methods*, ed. Charles Antaki (London: Sage, 1988), 171–172.

Social constructionism is a multidisciplinary framework which is influenced by philosophy, sociology, and linguistics.²⁹² It is a postmodernist framework that rejects the notion that one true structure or truth exists beneath the surface features of the world. In the history of philosophy, postmodernism emerged from the nihilistic ideas of Friedrich Nietzsche. He criticized the scientists of the Enlightenment period for making science, reason, and progress a dogma of modernism much in the same way as the dogma of Christianity had steered the life of the people in the Medieval Ages. According to Nietzsche, history, or human life lacks progress, grand purpose, and meaning.²⁹³ Postmodernism embraces the idea of multiple and co-existing practices, structures, identities, and realities²⁹⁴.

The philosophical roots of social constructionism were elaborated in the field of sociology in the early 20th century. The sociology of knowledge explored how sociocultural forces construct and reproduce knowledge in the society. Philosopher Max Scheler and sociologist Karl Mannheim were the most prominent academics who contributed to the early development of this research interest.²⁹⁵ The sociology of knowledge was influenced by the works and ideas of Karl Marx, Friedrich Nietzsche, and historicism as elaborated in the works of Wilhelm Dilthey. Specifically, this research interest utilized Karl Marx's twin concept of substructure and superstructure, and the ideas of Marx have been widely discussed and contested among the philosophers who have contributed to the development of the sociology of knowledge. Moreover, Nietzschean ideas of anti-idealism and art of mistrust as well as his own theory about false consciousness were used as foundations for the sociology of knowledge. Historicism's emphasis on the relativity of all perspectives on human life has inspired the sociology of knowledge as well.²⁹⁶

The sociology of knowledge was further developed by sociologists Peter L. Berger and Thomas Luckmann, who focused on social practices and showed how these play a central role in creating and reproducing social phenomena in a society and how individuals participating on these social practices might consider them as natural, fixed phenomena.²⁹⁷ After the success of their book *The Social Construction of Reality*, the concept of social constructionism began to spread across various disciplines. At first, it became popular among sociologists, who used this approach in research projects that focused on news and media, on conventions of scientific knowledge, and on exploring

²⁹² Burr, *Social Constructionism* (London: Routledge, 2015), 2.

²⁹³ Ibid., 12–13.

²⁹⁴ Ibid., 14.

²⁹⁵ Berger and Luckmann, *The Social Construction of Reality: A Treatise in the Sociology of Knowledge* (London: Penguin, 1971), 15–16, 20–22.

²⁹⁶ Ibid., 18–19.

²⁹⁷ Burr, *Social Constructionism* (London: Routledge, 2015), 14–15.

the construction of social problems and deviance²⁹⁸. Next, social constructionist approach was adopted to other social sciences and then to other disciplines. It was particularly useful for political scientist, and historians embraced this approach as well since the ideas of social constructionism suited well for a new trend in social history. This new research agenda emerged in the '60s after the rise of the civil rights movement. The research focus was shifted from elites to groups of people that had been previously neglected in history writing, i.e. disadvantaged persons and ethnic minorities. Furthermore, social constructionist approach gained some attention among academics in humanities, in anthropology, and in psychology. For instance, this approach allowed psychologists to examine and evaluate the social context in which psychological processes occurred.²⁹⁹

Social constructionism influenced the development of social psychology in the '60s and in the early '70s. In this era, social psychology was criticized on promoting the values of the dominant groups in the society. Moreover, it was criticized on positivist research settings which were conducted on laboratories, and thus, failed to shed a light on human behaviour in real-life context which contains multiple unexpected and changing variables. For instance, Kenneth J. Gergen participated on this discussion and argued that since the social life and psychological states are constantly changing, it is unnecessary to aim at a profound final statement or a description of a group, or a society.³⁰⁰

When utilizing research methods based on social constructionism, basic principles of this theoretical framework apply to the conduct of the research project. According to Vivien Burr, social constructionism rejects the idea that an objective truth or an objective reality exists. Burr notes that the results of the research project are always produced in interaction between the researcher and the researched. It is important to acknowledge that the researcher steers the process e.g. in determining the research questions and how they are formulated. The response from the researched, in turn, reflects a certain worldview, and if the researcher wishes to use, for instance, an interview as a research method, the responses might be formulated according to the emphasis embedded in research questions. Burr notes that presenting research results as objective and value-free truths is always a political act and a means to naturalize constructed phenomena.³⁰¹

On the other hand, the critics of social constructionism complain that, regarding its approach towards the reality, social constructionism possesses same deficiencies as other scientific, theoretical frameworks. Social constructionism is just as much a construction and a politically motivated theory

²⁹⁸ Best, "Historical Development and Defining Issues of Constructionist Inquiry," in *Handbook of Constructionist Research*, eds. Gubrium and Holstein (New York: Guilford Press, 2008), 43.

²⁹⁹ Ibid., 50–53.

³⁰⁰ Burr, *Social Constructionism* (London: Routledge, 2015), 15–16.

³⁰¹ Ibid., 172–173.

as other theories, and often discourse analysts forget to address their own role in reproducing discourses. In addition, the researchers often forget to explicitly acknowledge both their personal political stances and the experiences and background of the researched. These factors might have an effect on the research process and give a particular context to the research results.³⁰²

Reliability and validity are other matters that raise criticism towards social constructionism. Researchers utilizing methods based on social constructionism have, indeed, tried to find means to enhance coherence and scientific accuracy of research projects. The best practice is to conduct a systematic and careful analysis on the research material and to report the conduct of the research project accurately so that the validity of the research process can be evaluated afterwards.³⁰³

During this research process it was necessary to utilize concepts from the field of social psychology to explain phenomena that were evident in the research material. Native American Indigenous peoples' expressions on power relations reflected common principles of the Social Identity Theory developed by Henri Tajfel and John Charles Turner. According to this theory, one method for constructing an identity is a recognition of group identities and group belonging via differences. This social identity is maintained by favourable comparisons between the ingroup and the outgroup, and, in general, a strong ingroup identification might result negative attitudes and prejudices towards outgroup.³⁰⁴ On the other hand, Stand with Standing Rock environmental movement was built on co-operation between the tribe and various other groups of people. A meaningful co-operation on an equal status footing and a common goal supported interaction between groups and resulted close relationships, which, in turn, reduced prejudices. Furthermore, peaceful protests were approved by institutional authorities.³⁰⁵ The group processes emerging around Stand with Standing Rock environmental movement were a great example on the principles of Gordon Allport's Contact Hypothesis and Henri Tajfel's and John Charles Turner's Social Identity Theory.

3.5 Ethical Considerations

A research project on Native American Indigenous peoples raises always questions related to ethical issues. Indigenous peoples have suffered decades on research conducted by colonial dominant groups whose aim was to find evidence for and create a cultural hierarchy in which indigenous cultures would represent the least favourable form of a culture. This research interest was further utilized in reasoning

³⁰² Vivien Burr, *Social Constructionism* (London: Routledge, 2015), 176–177.

³⁰³ *Ibid.*, 178.

³⁰⁴ Bethan Benwell and Elizabeth Stokoe, *Discourse and Identity* (Edinburgh: Edinburgh University Press, 2006), 25–26.

³⁰⁵ Rupert Brown and Miles Hewstone, "An Integrative Theory of Intergroup Contact," in *Advances in Experimental Social Psychology*, ed. Mark P. Zanna, Vol. 37 (London: Elsevier, 2005), 258–259.

political decisions that aimed at a termination of these cultures and at taking the land and natural resources from indigenous peoples.³⁰⁶ Linda Tuhiwai Smith notes that even when the motives for a research project were sincere, and the researchers had good intentions, the conduct of researchers and the end results caused more harm than benefits for the researched indigenous communities. From the indigenous perspective, the research results could not offer any new and useful information for the community. Moreover, suggestions for future actions and measures were made without a comprehensive knowledge on the practices of the indigenous community, i.e. the suggested measures would not work in indigenous community or would not bring any improvement to the community.³⁰⁷

Moreover, indigenous communities usually do not get economic benefit from participating on a research project. Many researchers justify and reason their research on a common good for the humankind. Research projects might serve to enhance the knowledge of both academics and the public on indigenous issues, and, in some cases, this might help to improve the situation of the indigenous community. Nevertheless, it is more likely that the indigenous community does not benefit from the research even in the long run if the politicians refuse to implement new measures which would support and empower indigenous cultures. Lisa Tuhiwai Smith reminds that while the researchers debate on imperialism and on the effects of colonialism, many indigenous communities are literally struggling for a survival in the most deprived circumstances³⁰⁸.

Another concern regarding research projects on indigenous matters is the academic tradition according to which research projects are conducted. The principles of the mainstream academic tradition might not be suitable for a research on indigenous culture because those principles are developed within a mainstream culture, and consequently, the values and the practices of that culture are embedded in these practices. A research project conducted following these principles might not be able to provide accurate information on a community which utilizes different concepts, values, and practices in its everyday life.³⁰⁹ One can with a reason ask if a researcher from another culture is able to understand and interpret indigenous culture at all. Linda Tuhiwai Smith claims that the prevailing principles of the scientific work and the achievements of mainstream scientific societies are too often considered as the only rational way of exploring and making sense of the world³¹⁰.

³⁰⁶ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (New York: Zed Books, 2012), 30–31.

³⁰⁷ *Ibid.*, 33.

³⁰⁸ *Ibid.*, 34.

³⁰⁹ *Ibid.*, 92–95.

³¹⁰ *Ibid.*, 114.

On the other hand, it is important to bear in mind that a researcher trained in the mainstream scientific universities and in the scientific societies is unable to implement diverging scientific practices or even incorporate them to his or her project without re-education. In this sense, a researcher cannot be accused on a restricted approach towards indigenous cultures. Instead, the researcher must carefully explore the context of the researched and become aware of the differences between the mainstream scientific tradition and indigenous traditions. It is most important to address scientific practices that are humiliating and hurting indigenous peoples. It is very important to develop practices that take cultural knowledge into account and help researchers to conduct research projects in a manner which treats the researched respectfully. Indigenous activists have, indeed, addressed problems and biases in research practices targeted on indigenous peoples, and, in some cases, this have led to productive discussions on ethical matters related to indigenous studies.³¹¹

In the ideal situation, researchers should team up with colleagues which come from indigenous backgrounds. Researchers from the indigenous background have the most profound knowledge on their own culture, and they can help in developing the best practices for the research on indigenous matters. Moreover, indigenous researchers have networks and relationships which might help in contextualizing the research topic. On the other hand, researchers who do not have direct ties to the indigenous community might be able to make observations on matters that are so evident for the members of the indigenous community that even indigenous researchers cannot address or question them. By teaming up the researchers could plan a research project which genuinely supports indigenous community. Furthermore, a co-operation would produce more accurate knowledge on the indigenous community. This type of action would require open-minded researchers who are willing to co-operate and learn from each other on an equal basis.

Ethical matters discussed above were present in this research project as well. The research material was written in English, which obviously restricted the conveyed meanings compared to the situation in which the texts would have been written in Lakota language. The contextualization of the events in Standing Rock was not an easy task either. In most cases the researcher had to rely on eye-witness accounts. Materials published on the Internet gave some clues on the course of the events. Fortunately, there was enough information, eye-witnesses' accounts, and reliable documents available in order to make reliable conclusions on the events. Nevertheless, a further study on Stand with Standing Rock environmental movement would still need even more comprehensive approach on the subject, and more research material than what it was possible to collect in the scope of this project.

³¹¹ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (New York: Zed Books, 2012), 43.

It is always possible that some aspects of the events in Standing Rock remain secret since the indigenous community has always a right to choose what information it decides to publish. As in other scientific activity, a researcher has to put a trust on the scientific society and hope that if there are errors or misinterpretations in the results of this project, a future research shall correct them.

4 Research Analysis and Results

Environmental and power discourses were identified in this research project by using the techniques of Critical Discourse Analysis and utilizing computer aided qualitative data analysis software called Atlas.ti. Media texts were imported to the software and coded utilizing open coding and list coding functions. Following subchapters will illustrate the research process and necessary solutions made in the research process in order to pinpoint relevant discourses. This chapter will present the results of the Critical Discourse Analysis. And finally, this chapter will discuss the socio-cultural context in which these discourses appear and purposes to which these discourses are utilized.

4.1 From Text Passages to Codes, Code Groups, and Discourses

At the first stage the research material was collected from the web page of *Indian Country Today*, imported to the Atlas.ti 8 software, and studied and coded carefully in order to perform a discourse analysis. Since the research material portrayed various perspectives, opinions and attitudes and the texts presented a complex and multifaceted picture of the events, it was necessary to extend the scope of the coding at first and then group codes according to themes. This procedure enabled a more precise comprehension of the events and various factors connected to them. In addition, this method helped to analyse different perspectives and to pinpoint discourses that are relevant for this study.

During the research process 113 individual codes were identified, and codes were identified according to their semantic connection either as power discourse or as an environmental discourse. Codes were further grouped to eight code groups. These were “Emotions and conduct”, “Events”, “Group processes”, “Ideologies”, “Law and rights”, “Motivations”, “Power relations” and “Results”. In addition, one code group was created for those codes that from the European and from the Finnish perspective seemed to represent the most problematic aspects of the events in Standing Rock. These codes are linked to administration of justice in the United States, and, more precisely, those codes were attached to the text passages reporting events in which U.S. Army of Corps’ Engineers used Appendix C from the Code of Federal Regulations for the protection of historic properties to fulfil the requirements of the National Historic Preservation Act. In the section 106 of the National Historic

Preservation Act, federal agencies are ordered to afford the Advisory Council on Historic Preservation an opportunity to evaluate and comment on projects that have effects on historic properties, and, in this case, Appendix C was used to create a loophole to evade the intent of the act. Furthermore, this conduct has created a controversy over practices during the construction of Dakota Access Pipeline.

Code group “Emotions and conduct” contains codes that signalize the Oceti Sakowin’s feelings during the events. Feelings of injustice, tensions, and distrust as well as indigenous dignity were often represented in media texts. Code group “Events” was used in this research to analyse the events and opposing stances to them. Code groups “Group processes” and “Power relations” are related to each other. Codes in the group “Power relations” most often signalize the negative aspects of the group processes as well as the Oceti Sakowin’s oppressed position. Nevertheless, this group contains also codes for indigenous sovereignty and activism as well as peaceful resistance, which were explicitly mentioned or otherwise very often signalized in the research material. The code group “Group processes” contains, codes e.g. for co-operation, indigenous unity, intergroup solidarity, and mutual solidarity among Native American Indigenous peoples. Direct expressions signalizing hostile intergroup attitudes were rare. In general, this research process revealed that intergroup relations between Native American Indigenous peoples and the American majority might be very strained but also a genuine endeavour for a co-operation and for intergroup solidarity exists.

On the other hand, in the research process it became necessary to create an individual code for war discourse because some text passages contained words and expressions from the military context, and those expressions could not be ignored in the context of this research project. Expressions belonging to the war discourse are, for instance, “The past few decades have [sic] seen a massive escalation in the weaponry and lethality of American law enforcement. Neighbourhood sheriffs have metamorphasized into an invading military force that treats our communities like war zones and our people like enemies.” and “At least one sniper atop a Humvee scanned the crowd of protectors.” This code was further attached to the code group “Ideologies”. Besides war discourse, this group contains codes e.g. for contemporary environmental discourse, for liberalism and for a phenomenon that is called a modern-day colonialism in this research project. This code was attached to text passages reporting all kinds of practices which ultimately pose a threat for indigenous sovereignty. The scope of modern-day colonialism extends from condemning lands under eminent domain to extensive presence of persons belonging to the American majority in a demonstration which originally was organized by Native American Indigenous peoples. Codes in the code group “Law and rights”, in turn, signalize support for human rights and legal rights of Native American indigenous peoples. Codes in the code group “Motivations” signalize causes behind Stand with Standing Rock environmental

movement. From these codes the protection of indigenous traditions and culture was mentioned most often as a motivation for an action. The code group “Results” contains codes for end results of the action, namely indigenous empowerment as well as recognition and increased awareness for indigenous matters.

In conclusion, the research material contained texts which presented various perspectives and opinions on the events in Standing Rock during the demonstrations against Dakota Access Pipeline. Feelings of injustice, tensions, and distrust as well as indigenous dignity were often expressed in media texts. On the other hand, indigenous sovereignty and activism as well as aspirations for a peaceful resistance were emphasized in the research material. In general, intergroup relations between Native American Indigenous peoples and the American majority might be very strained but also a genuine endeavour for co-operation and intergroup solidarity exists. Codes that most often occurred in the research material were mutual solidarity between Native American Indigenous peoples, intergroup solidarity between the Oceti Sakowin and the American majority, indigenous sovereignty, indigenous legal rights, exclusion, peaceful resistance, and the code for the importance of culture, history and traditions.

4.2 Environmental Discourse Reflects Indigenous Philosophy

Environmental discourse in *Indian Country Today*’s articles chosen for this research project is partly similar to the contemporary discourse on environmental issues which can be found in the newspapers and magazines published by the American majority. This subchapter will illustrate the key elements of the environmental discourse used by the Oceti Sakowin.

The Oceti Sakowin support renewable energies and saving environment for the future generations in the same manner as the American majority. Nevertheless, word choices in these text passages signaling support for these matters are cautious to some extent. For instance, references to the impacts of renewable energies usually contain the verb *may* instead of stronger and more direct expressions. The explanation for cautious word choices might be the fact that oil industry is an affordable source of income for some Native American Indigenous tribes, which are devoted supporters of *Indian Country Today*.

Nevertheless, the research material reveals that features of the contemporary environmental discourse are only one aspect of the environmental discourse in *Indian Country Today*. A strong emphasis is given to indigenous culture and traditions and how utilizing this philosophy ultimately protects the environment from destruction. A lack of respect for the Earth and water are ultimate causes for the environmental crisis. The Oceti Sakowin and other Native American Indigenous peoples emphasize the idea that greedy exploitation of natural resources destroys healthy communities,

and environmental protection and action to promote environmental restoration are the Oceti Sakowin's responsibilities for the humankind. They portray themselves as environmentalists, who protect the environment for all the peoples in the world. Indigenous environmental discourse contains expressions that are rooted to indigenous philosophy, worldview, and religious beliefs.

An ecosystem under a threat is one continuously appearing topic in the indigenous environmental discourse. Construction work in the ancestral lands of the Oceti Sakowin and potential oil spills in the future are the main reasons for an emergency, and a threat for indigenous survival. According to one of the protesters, Chase Iron Eyes, this threat has evoked and strengthened the revival of the indigenous philosophy, traditions, and culture³¹². This revival has undeniably increased indigenous civil activity and a sense of indigenous sovereignty and empowerment. Environmental discourse in *Indian Country Today* emphasizes the necessity for a direct action and depicts a severe situation to which the Oceti Sakowin must react in order to save the environment.

In conclusion, indigenous environmental discourse presented in *Indian Country Today* emphasizes Native American Indigenous peoples' responsibility to protect environment from a threat caused by the American oil industry, the profit-driven business, and the ignorance of the American majority. Environmental discourse contains expressions both from the traditional Native American Indigenous philosophy and from the contemporary environmental discourse which is commonly used by the American majority. In the Oceti Sakowin's environmental discourse the Earth, the water and the nature are treated according to their philosophy and religious beliefs, i.e. they are living entities that should be respected and nurtured in the same manner as humans respect and take care of each other.

4.3 Various Aspects of Indigenous Reality Represented in Power Discourse

Power discourse in *Indian Country Today* represents the perspective of the indigenous peoples towards the events in Standing Rock. Nevertheless, the media texts contain also comments e.g. from North Dakota Governor Jack Dalrymple and Morton County Sheriff Kyle Kirchmeier, especially in a text which report highly controversial accounts on events in Dakota Access Pipeline construction area. This subchapter will illustrate the key elements of the power discourse used by the Oceti Sakowin. Firstly, this subchapter shall focus on the use of language in reporting controversial accounts on events during the demonstrations, secondly, this subchapter shall focus on the introspection of the Oceti Sakowin concerning its position, motives, goals, and power sources during the demonstrations,

³¹² Frank Hopper, "Chase Iron Eyes Explains Friday's Indigenous Peoples March on Washington," *Indian Country Today*, <https://newsmaven.io/indiancountrytoday/news/chase-iron-eyes-explains-friday-s-indigenous-peoples-march-on-washington-mr-BXlkJ8E2wE6Uad8e7wA/>

and finally, this subchapter shall focus on intergroup attitudes and how those are expressed as a part of the power discourse.

Objectivity is one of the most important ideals in the journalistic work and the main reason for journalists to aim at a balanced reporting on the events. As a result, a newspaper or an electronic journal might contain controversial discourses on the same event. This phenomenon exists also in *Indian Country Today*. The research material contains texts in which journalistic practices lead to a two-fold approach towards the events. This was particularly distinct in articles which reported the escalation of the conflict and its direct consequences. For instance, in August 2016 the protesters apparently misbehaved or did something illegal and this event created a discourse among the American authorities that portrayed the demonstrations as a threat to public safety and labelled those unlawful. Governor Dalrymple declared a state of emergency across several counties, and even if he soon halted the activation of the National Guard, these events are an example of tensions and distrust between indigenous peoples and the American majority. North Dakota authorities and officials use cautious language when referring to the events that caused the declaration of emergency. Examples of these expressions are e.g. “rumours have swirled about potential threats to public safety – rumours that have been refuted by numerous images and accounts on what is actually happening.” and “...he issued an executive order implying that public safety was at risk.”³¹³. It is noteworthy that in the midst of this conflict Tribal Council Chairman David Archambault II lamented misapprehension and emphasized tribe’s willingness for a co-operation. Indigenous discourse placed a strong emphasis on the peaceful character of the demonstrations and criticized a disproportionate, militarized response for the Water Protectors. Furthermore, *Indian Country Today* reported in October 2016 that the Oceti Sakowin tribal law enforcement arrested a heavily armed non-indigenous man who acted as a Water Protector but whose obvious task was to instigate violence within the peaceful protestors and to garner a reaction from Morton County law enforcement. Dallas Goldtooth, an organizer for the Indigenous Environmental Network, confirmed that this individual was an employee of the Dakota Access LLC.³¹⁴ Later Energy Transfer Partners hired a private security company TigerSwan to secure the construction area, and, according to attorney Daniel Sheehan, they attempted to racially profile indigenous peoples as violent, criminal, and dangerous religious-driven terrorists. Moreover, the prosecutor of the Morton County allegedly tried to impede and to delay attempts to gather evidence for

³¹³ Indian Country Today, "Dakota Access: 6 Peaceful Images from the Water Protectors at Standing Rock," Indian Country Today, https://newsmaven.io/indiancountrytoday/archive/dakota-access-6-peaceful-images-from-the-water-protectors-at-standing-rock-8j3eNsmV_0i02pJiS45AcQ/

³¹⁴ Amy Goodman, "Standing Rock Special: Dallas Goldtooth on Police Violence & Repression of Movement Against DAPL," Democracy Now!, https://www.democracynow.org/2016/11/24/standing_rock_special_dallas_goldtooth_on

suspicious co-operation between Morton County law enforcement officials and TigerSwan employees³¹⁵.

As stated above, one of the key features in indigenous power discourse presented in *Indian Country Today* is to emphasize the peaceful character of the demonstrations. An oppressed position and exclusion in its various forms are also very often signalized in the research material. Discrimination, dehumanization of Native American Indigenous peoples, and racism are mentioned in the texts as well. Ignorance of the indigenous rights, cultures and sacred areas are factors that cause tensions between the Oceti Sakowin and federal authorities. The Oceti Sakowin refers continuously to their legal rights and administrative controversy caused by Appendix C, and they petition the federal government to intervene and protect the rights of the Oceti Sakowin. The research material contains also expressions and text passages signalizing amends for the Oceti Sakowin when federal authorities begin to investigate allegations of the Oceti Sakowin and urge U.S. Army of Corps' Engineers to pursue a further review and analysis on the environmental impacts of Dakota Access Pipeline.

The Oceti Sakowin interpret demonstrations as necessity defence and self-defence, and their sources of power are indigenous spirituality in general, and, to be more specific, spiritual support and prayers. Expressions of mutual solidarity among Native American Indigenous peoples as well as manifestations of indigenous unity are overtly common in the research material. Indigenous sovereignty and activism as well as indigenous empowerment are significant themes in indigenous power discourse. The most enthusiastic members of the Oceti Sakowin express their support for reversion and restoration of the indigenous lands.

It is noteworthy that the research material contains significant amount of expressions and text passages that signalize positive intergroup attitudes such as intergroup solidarity and respect, willingness for a co-operation and support for a co-existence. Moreover, the research material contains one media text that reports acts of reconciliation between the Oceti Sakowin and American veterans. Reconciliation is mentioned in Leonard Peltier's solidarity message for the Water Protectors as well. Even if the occurrence of the reconciliation discourse is rare in this research material, it signalizes an important trend in the development of the intergroup relationships. Explicitly negative or hostile expressions signalizing negative intergroup attitudes are, in turn, exceedingly rare in this research material.

In conclusion, the power discourse presented in *Indian Country Today* emphasizes the perspective of the Oceti Sakowin and portrays the actions of the U.S. Army Corps' of Engineers and the

³¹⁵ Indian Country Today editorial team, "North Dakota Prosecutors Drop all Serious Charges Against Chase Iron Eyes," Indian Country Today, <https://newsmaven.io/indiancountrytoday/the-press-pool/news-release-the-lakota-people-s-law-project-in-what-defense-attorneys-are-calling-a-major-PCYFMLrVI02753t8eQhNLw/>

Morton County law enforcement as careless, dubious, criminal, and disproportionate. Expressions signaling oppressed position and negative aspects of intergroup relations, i.e. racism, discrimination, exclusion, and majority group's ignorance both towards indigenous cultures and towards indigenous legal rights form the essential character of the power discourse. Furthermore, a special emphasis is given to the peaceful character of the demonstrations. In addition, demonstrations are presented as indigenous form of necessity defence and self-defence. Indigenous sovereignty and activism and the resulting indigenous empowerment are significant themes in the power discourse. Mutual solidarity and spiritual support are considered as the most important power sources of the Oceti Sakowin. On the other hand, the power discourse emphasizes positive intergroup attitudes as well. Intergroup solidarity and respect, willingness for a co-operation and the support for co-existence are recurring themes in the research material. Furthermore, amends for the Oceti Sakowin as well as the necessity of a reconciliation process are expressed in the media texts. Expressions for positive intergroup attitudes are an important signal of a future trend in intergroup relationships between the Oceti Sakowin and the American majority.

4.4 Socio-Cultural Context and Purposes of Environmental Discourse

The prophecy on Black Snake is one of those fundamental narratives in the Oceti Sakowin's oral history that help the Oceti Sakowin to relate themselves into the world. The prophecy portrays the relationships and networks in which the Oceti Sakowin is a member and a participant. In this context, the snake represents something that brings sickness and destruction to the communities and causes negativity, dysfunction, and unhealthiness among the people.³¹⁶ Dakota Access Pipeline represents the black snake for the Oceti Sakowin, and the prophecy was utilized as a key narrative in the beginning of the protests. Its purpose was to explain Native American indigenous perspectives, opinions, and philosophy for the American majority. According to Nick Estes, the present situation of the Oceti Sakowin carries their past and decisions which were made by their ancestors. The Oceti Sakowin's future is determined by their understanding of the past.³¹⁷ Estes emphasizes that, in indigenous philosophy, humans are expected to be good and honouring relatives also to the environmental entities such as rivers, lakes, mountains, or the earth. In Lakota language this meaning and relationship is expressed with the word *Wotakuye*. I.e. for the Oceti Sakowin, environmental protection carries not only the connotations that an average American would give to this term but also a connotation of

³¹⁶ Bioneers, "The Prophecy of the Black Snake," <https://youtu.be/rKKIx33B99I> (accessed 11/18/2019, 2019).

³¹⁷ Estes, *Our History is the Future: Standing Rock Versus the Dakota Access Pipeline, and the Long Tradition of Indigenous Resistance* (London: Verso, 2019), 14.

being a good and a responsible relative who protects e.g. a river from pipelines that could cause an environmental crisis.³¹⁸ From this ideology stems the idea of Water Protectors.

Above all, and from the indigenous perspective, Dakota Access Pipeline poses a real and a severe threat for the vital resources and for the survival of the Oceti Sakowin. Pipelines tend to spill, and in the past the United States has seen some major environmental catastrophes caused by pipeline spills. Even if the major demonstrations in Standing Rock are over, the battle continues in the court rooms. Moreover, the environmental catastrophe seems to become true in North Dakota as well. Keystone Pipeline system leaked 383,000 gallons of oil in North Dakota in the end of October 2019³¹⁹. Meanwhile, Energy Transfer Partners plan to double the capacity of the Dakota Access Pipeline³²⁰. In his opinion letter for *The Guardian* in November 2019, the present Standing Rock Tribal Council Chairman Mike Faith asserts that the pipeline represents a threat and an insult to the Oceti Sakowin's traditions, lifestyle and culture, and the residents of Standing Rock will continue to appeal against the Dakota Access Pipeline³²¹. And it seems that Dakota Access Pipeline is not the only project in which the permits and policies have been questioned during the process. According to the Associated Press and *The Washington Post*, the FBI began investigating Governor Tom Wolf's administration on corruption after he had issued permits for the construction on Mariner East II Pipeline in November 2019. The pipeline is owned by the Energy Transfer Partners and the Sunaco³²².

It is important to note that the question of whether to preserve natural resources or take advantage of them might be difficult for Native American Indigenous peoples. The Oceti Sakowin's stance, according to this research material, is that the tribe wants to assure economic development and a better future for its members and especially for the younger generations but not at any cost.

³¹⁸ Nick Estes, *Our History is the Future: Standing Rock Versus the Dakota Access Pipeline, and the Long Tradition of Indigenous Resistance* (London: Verso, 2019), 14–15, 21.

³¹⁹ Niraj Chokshi and Emily S. Rueb, "Keystone Pipeline Leaks 383,000 Gallons of Oil in North Dakota," The New York Times Company, <https://www.nytimes.com/2019/10/31/us/keystone-pipeline-leak.html>

³²⁰ Associated Press, "Company: Dakota Access Expansion Doesn't Increase Risk," The New York Times Company, <https://www.nytimes.com/aponline/2019/11/13/business/ap-us-dakota-access-pipeline-expansion.html?searchResultPosition=2>

³²¹ Mike Faith, "Our Fight Against the Dakota Access Pipeline is Far from Over," The Guardian, <https://www.theguardian.com/commentisfree/2019/nov/15/dakota-access-pipeline-standing-rock>

³²² Marc Levy, "AP Exclusive: FBI Eyes how Pennsylvania Approved Pipeline," Frederick J. Ryan Jr., https://www.washingtonpost.com/national/energy-environment/ap-exclusive-fbi-eyes-how-pennsylvania-approved-pipeline/2019/11/12/81baa290-058b-11ea-9118-25d6bd37dfb1_story.html

4.5 Socio-Cultural Context and Purposes of Power Discourse

Stand with Standing Rock demonstrations were an extraordinary reunification of the Oceti Sakowin in the sense that this kind of gathering had not happened in decades.³²³ According to Estes, politicians and media have frequently portrayed disadvantaged families living in economically depressed rural areas as enemies competing for scarce resources, and group divisions and group memberships have been emphasized in these contexts³²⁴. Nevertheless, Stand with Standing Rock environmental movement and demonstrations against Dakota Access Pipeline provided a common cause and a co-operation opportunity for all peoples living in North and South Dakota, and it brought peoples from all parts of the country together as a sign of solidarity.

However, this all did not happen without negative consequences as well. Ihanktonwan Dakota Oyate elder Faith Spotted Eagle states that demonstration camps and reservations often attract persons who, from one reason or another, feel like outsiders in the mainstream culture, or they might have problems with the authorities. They come to the reservations to seek their identity, or to escape their problems, and they might not be able to provide anything for the indigenous community. Consequently, they might become a burden for the residents of the reservation.³²⁵ In the worst case, these people bring alcohol and drugs to the reservation and cause even more trouble. Faith Spotted Eagle explains that most of the visitors might have had good intentions and a real willingness to help but eventually there was a demonstration camp in which some 80 percent of the participants represented the American non-indigenous majority, and not all of them were able to take orders from the tribe's elders or respect their culture. According to Faith Spotted Eagle, these persons came to the reservation with a settler colonial mind and acted accordingly.³²⁶

Nevertheless, participating in the Stand with Standing Rock movement with daily duties on demonstration camps were an important experience especially for young Lakota. Faith Spotted Eagle states that in the camps young people had an opportunity to live according to their traditional culture³²⁷. This was important for their identity development, and daily routines offered activities and duties that helped young people to develop a sense of responsibility according to indigenous values.

³²³ Estes, *Our History is the Future: Standing Rock Versus the Dakota Access Pipeline, and the Long Tradition of Indigenous Resistance* (London: Verso, 2019), 2.

³²⁴ Ibid., 6–7.

³²⁵ Indian Country Today, "Faith Spotted Eagle on the Settler-Colonial Mind-Set," Indian Country Today, <https://news-maven.io/indiancountrytoday/archive/faith-spotted-eagle-on-the-settler-colonial-mind-set-GRbqpCUEv0WG-Ev0UhyXYQ/>

³²⁶ Ibid.

³²⁷ Estes, *Our History is the Future: Standing Rock Versus the Dakota Access Pipeline, and the Long Tradition of Indigenous Resistance* (London: Verso, 2019), 58.

On the other hand, camps provided duties for adults as well, and, according to Estes, many quitted their jobs and travelled to Standing Rock to take care of the Water Protectors.³²⁸

In conclusion, Stand with Standing Rock movement is more than just a protest and a demonstration against the authorities of the United States and the construction workers of the Dakota Access LLC. Demonstration camps offered young people meaningful activities and an opportunity to develop indigenous identity. It was a vital experience for young people who are suffering from the consequences of deprivation, unemployment, drug abuse, and political power struggles, which have affected the lives of the residents in Standing Rock for generations. The events in Standing Rock gave young people a topic, a story in which they could relate and in which they had a central position. After the demonstrations they were not simply repeating the oral history which they had learned from their ancestors. They had their own stories to tell for the next generation. And this time this discourse contained – beside the traditional division between the Oceti Sakowin and the American majority – also tones which emphasized intergroup co-operation and support, an apology from the American majority expressed by the American veterans, and also the importance of solving problems without fatalities.

5 Conclusion

North American Indigenous history is usually viewed and treated from the non-indigenous American perspective which emphasizes indigenous peoples' oppressed position, land cessions, discrimination, termination policy, and social problems. Indigenous agency, sovereignty, and empowerment are rare themes in that perspective. Protests against Dakota Access Pipeline and Stand with Standing Rock environmental movement might seem as another chapter in the history which portrays indigenous peoples as victims but instead, at least from the indigenous perspective, the movement provided important opportunities for a co-operation, empowerment, and identity building for indigenous peoples. According to David Treuer, there is a noteworthy shift in the paradigm of words with which indigenous peoples speak about themselves. For instance, in the past indigenous persons used to determine their indigenous identity by referring to losses and suffering. In the past, distinguishing marks for indigenous identity were primarily one's skin colour, enrolment to a tribe, poor childhood, and social problems. Nowadays indigenous identity is more often determined and reinforced via agency and solidarity. Distinguishing marks are, for instance, the use of indigenous language, the participation on traditional events and ceremonies as well as the willingness to support traditional and sustainable

³²⁸ Nick Estes, *Our History is the Future: Standing Rock Versus the Dakota Access Pipeline, and the Long Tradition of Indigenous Resistance* (London: Verso, 2019), 59.

sources of livelihood. The participation on Stand with Standing Rock movement is an important act of solidarity as well.³²⁹

The shift in the paradigm illustrated above is apparent in this research as well. The environmental discourse presented in *Indian Country Today* emphasizes Native American Indigenous peoples' responsibility to protect the environment. This idea stems from the traditional Native American Indigenous philosophy according to which the Earth, the water and the nature are living entities that should be respected and nurtured in the same manner as human beings. Moreover, the environmental discourse contains elements of the modern environmental discourse which emphasizes environmental protection and sustainable lifestyle as means for saving the world for future generations. The American oil industry, profit-driven business, and the ignorance of the American majority pose a threat for the indigenous peoples but it is important to note that, at least according to this research material, the question of whether to preserve natural resources or take advantage of them might be difficult for Native American Indigenous peoples. The Oceti Sakowin wants to assure economic development and a better future for its members and especially for the younger generations but this cannot happen at any cost.

The power discourse presented in *Indian Country Today* contains both old and new elements. The group identity was strongly manifested, and processes related to intergroup relationships were apparent. The main core of the power discourse emphasizes uneven power relations, conflict, and power struggle. Expressions signaling negative aspects of the intergroup relations, i.e. racism, discrimination, exclusion, and majority group's ignorance of indigenous cultures and indigenous legal rights are common. Suspicion and distrust are placed especially upon the American federal authorities. Moreover, demonstrations are presented as a peaceful civil activity, and from the indigenous perspective those are forms of necessity defence and self-defence. Indigenous sovereignty and activism and the resulting indigenous empowerment are significant themes in the power discourse, and mutual solidarity and spiritual support are considered as the most important power sources of the Oceti Sakowin. These traditional elements of the power discourse support common principles of the Social Identity Theory developed by Henri Tajfel and John Charles Turner. According to this theory, one method for constructing an identity is a recognition of group identities and group belonging via differences. This social identity is maintained by favourable comparisons between the ingroup and the outgroup, and, in general, a strong ingroup identification might result negative attitudes and prejudices towards outgroup.³³⁰ On the other hand, new, or rather unexpected elements of the power

³²⁹ Treuer, *The Heartbeat of Wounded Knee: Native America from 1890 to the Present* (New York: Riverhead Books, 2019), 442.

³³⁰ Benwell and Stokoe, *Discourse and Identity* (Edinburgh: Edinburgh University Press, 2006), 25–26.

discourse represent the next stage of the intergroup relationships, i.e. positive intergroup attitudes. Intergroup solidarity, respect, willingness for co-operation, and support for co-existence are recurring themes in media texts published by *Indian Country Today*. Furthermore, the research material contains reported amends for the Oceti Sakowin, and the necessity of the reconciliation process is emphasized in the research material. Expressions for positive intergroup attitudes are an important signal of the future trend in intergroup relationships between the Oceti Sakowin and the American majority.

Discourses presented in *Indian Country Today* are produced in a journalistic process which has its roots in the social context of the Native American Indigenous peoples. Stand with Standing Rock environmental movement acquired a strong support from the American majority. The environmental movement created environmental and power discourses which shifted the focus, at least to some extent, from hostile intergroup relationships and from uneven power relations to a co-operation and coexistence. Traditional Native American Indigenous beliefs were reinforced, and simultaneously indigenous sovereignty and activism was strengthened. Demonstration camps offered young people meaningful activities and an opportunity to develop indigenous identity. The events in Standing Rock gave young people a story in which they could relate and in which they had a central position. After the demonstrations they were not simply repeating the oral history which they had learned from their ancestors. They had their own stories to tell for the next generation. And this time this discourse contained tones which emphasized intergroup co-operation and the importance of solving problems without fatalities.

It is important to note that the Oceti Sakowin continues to fight against the Dakota Access Pipeline even if the construction work is completed. Stand with Standing Rock environmental movement is an important example on peaceful resistance and on co-operation with the American majority for other Native American Indigenous tribes.

This research focuses only on discourses produced in a journalistic context. Nevertheless, during this research process it was important to study legal cases that were related to the events in Standing Rock in order to acquire a full comprehension on the events. It became apparent that the discourse used, for instance, in the letters of Tribal Council Chairman David Archambault II was more expressive and personal than the language used in media texts. Therefore, it is important to remember that the medium, in which messages are created and produced, always has an influence on the content of those messages. A closer look on the judicial process also revealed how the judicial process itself shapes rhetoric, arguments, resolutions, and what kind of implications these resolutions have to the following actions. From the European and the Finnish perspective, it was surprising that the events began with a complaint and already the first memorandum opinion by the District Judge

James E. Boasberg contained language and arguments that guaranteed a lengthy judicial process containing subsequent complaints and resolutions. Moreover, it was surprising that in the American judicial system the interpretation of, for instance, environmental law might turn against those who seek to protect the nature.

To sum up the results of the Critical Discourse Analysis and the lessons drawn from the study of the context, it seems that the core values of the American society steer, for instance, actions, conduct of projects and judicial processes in a manner that disfavours the rights of minorities. In this case, it seems that the judicial process distances itself from objectivity and seeks to protect only the culture of the wealthy. This is obvious from the beginning of the judicial battle against Dakota Access Pipeline. Firstly, the first memorandum opinion, which was given by the District Judge James E. Boasberg on September 9, 2016, implicates that the plaintiff itself, i.e. the residents of Standing Rock should have had special expertise to evaluate, for instance, professional skills of the U.S. Army of Corps' Engineers' employees and that they should have had a profound knowledge on oil industry and its practices in order to be eligible to file a complaint³³¹. This puts the Oceti Sakowin to an impossible situation as a plaintiff, and the memorandum opinion only seems to find excuses for ignoring the claims of the plaintiff.

Secondly, the power of companies and corporations is explicitly manifested when the judge admits that, in fact, the federal district court possesses no authority to intervene into the actions of the Dakota Access LLC if the company can prove that it has acted according the law and regulations³³². A possible threat for the tribe's vital resources and nature is left undiscussed even if the consequences of the oil spills in populated areas and the costs of evacuating people from those areas are well known. The judge refers to the regulations concerning the conduct of a construction project³³³ but the fact that a possible oil leak will contaminate the whole river and have a large-scale damage beyond the areas of potential effect determined in those regulations is left unnoticed. Obviously, this is a chosen tactic because according the original plan proposed in 2014, the pipeline would have crossed the Missouri River near Bismarck but this plan had to be changed because U.S. Army of Corps Engineers' determined that an oil leak would contaminate the city's water supply.³³⁴

Thirdly, it seems that there have been major technical problems in internet network connections which might be one of the initial causes for the whole conflict. Instead, in his memorandum

³³¹ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 31 (D.D.C. 2016), WL 4734356.

³³² *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 34–35 (D.D.C. 2016), WL 4734356.

³³³ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 11 and 29 (D.D.C. 2016), WL 4734356.

³³⁴ Taylor N. Johnson, "The Dakota Access Pipeline and the Breakdown of Participatory Processes in Environmental Decision-Making," *Environmental Communication* 13, no. 3 (2019), 335.

opinion the District Judge James E. Boasberg implicates that the Standing Rock tribe should have been able to prove, for instance, that its members did not receive a certain e-mail, or a letter allegedly sent in November 2009 in order to be able to claim that they were not adequately informed about the project.³³⁵ The possibility of lacking mobile phone network and internet network connections is not even mentioned in the documents.

And finally, it is also possible that someone has acted as Tribal Historic Preservation Officer Wašté Win Young without her consent and given a statement for Dakota Access LLC that no historical properties are affected on Lake Oahe site. The memorandum opinion claims that Wašté Win Young had a meeting with Dakota Access LLC in October 2014 and gave a permission to proceed with the project³³⁶. Furthermore, some materials on the Internet indicate a meeting between Standing Rock Tribal Council and Dakota Access LLC on September 30, 2014. It is impossible to verify these materials in the scope of this research project, and if they are real, a possible identity theft might still have happened. According to the complaint, the first contact with Wašté Win Young occurred on February 12, 2015, when U.S. Army of Corps' Engineers e-mailed her about the geotechnical surveys for Horizontal Directional Drilling, and the first meeting happened when Colonel John Henderson visited Standing Rock in 2016.³³⁷ Whether an identity theft has happened is hard to prove afterwards, but it would explain highly controversial accounts.

On the other hand, as soon as the construction work was completed and the pipeline was in operation, the attitude towards Standing Rock seemed to change as well. Only then the environmental concerns were acknowledged and mistakes in the judicial process were confessed. By the time of writing this chapter, the judicial process is still continuing in the court room, and at the moment it seems that the end result might favour the Standing Rock tribe. Whether this is the case, remains to be seen.

6 Discussion

Stand with Standing Rock movement is a significant milestone in the history of Native American Indigenous peoples and especially in the history of the Oceti Sakowin and the Standing Rock tribe. By the time of writing this chapter, the judicial battle continues in the court room, which means that a struggle for clean water and environment is far from being over. The events in Standing Rock reflect the history of Native American Indigenous peoples in the North America. Simultaneously they represent the most recent chapter in the history of Native American Indigenous activism. The purpose

³³⁵ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F.Supp.3d 4, 27 (D.D.C. 2016), WL 4734356.

³³⁶ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4, 20 (D.D.C. 2016)

³³⁷ *Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 2016 WL 4033936 (D.D.C.) at para 87 and 99.

of this final chapter is to discuss the results of this study, the events in Standing Rock, and the Stand with Standing Rock environmental movement in a wider societal context.

The most significant themes in Stand with Standing Rock movement are environmental protection and traditional cultural values and ideology of the Oceti Sakowin, and more specifically, the traditions of the Standing Rock tribe. The environmental discourse presented in the media texts of *Indian Country Today* is quite similar to the contemporary environmental discourse produced by the American majority. Environmental protection became a topic that combined the interests of Native American Indigenous peoples and the American majority. This made a meaningful co-operation possible, and, as a consequence, people from all parts of the United States of America and across the world participated on the movement regardless of their backgrounds or group memberships.

On a closer look, the situation in Standing Rock was not so simple. It has been noted that among Native American Indigenous tribes living in North and South Dakota, the Standing Rock tribe is one of the most conservative groups in the area. I.e. they cherish traditional values and conduct of the Oceti Sakowin and prefer to protect their culture from the influences of the American mainstream culture. Furthermore, the relationship between the Oceti Sakowin and the U.S. government has always been problematic, and indigenous peoples are suspicious towards the federal government and authorities on a state level due to past injustices, fraud, and disappointments. Given these premises, it is comprehensible that a co-operation between the tribe, U.S. Army of Corps' Engineers, and Dakota Access LLC began slowly and that the attitudes towards the Americans probably were mistrustful and hostile.

On the other hand, the judicial documents revealed that one of the major problems was a lack of understanding on the traditional cultural codes of the Oceti Sakowin in the initial encounters, correspondence, and communication. It seems that even the tribal liaisons might have been unaware of these cultural codes, and, for instance, Tribal Liaison Joel Ames might have even worsened the situation if traditional Lakota considered him first and foremost as an Osage, i.e. an old enemy. Furthermore, matters related to hierarchies might have caused a failure in the initial communication. Standing Rock Tribal Council Chairman David Archambault II wished to negotiate on government-to-government basis, and he might have considered Joel Ames a person insufficient to operate on that higher level of the hierarchy. In addition, the timing of the correspondence and formulations used both in the correspondence and in the memorandum opinions might have insulted and provoked Native American Indigenous peoples. U.S. Army of Corps' Engineers would have been able to tackle these initial problems if it had had more information on the history and on the traditional culture of the Standing Rock tribe. Colonel John Henderson managed to create a contact with the tribe but, at that stage, U.S. Army of Corps' Engineers was reluctant to continue negotiations with the tribe.

Dakota Access Pipeline project brought a new threat for the tribe, and in solving this problem the tribe needed help from the American majority. For the Standing Rock tribe, environmental protection was just one theme and motivation for the demonstrations against the pipeline. The legend of the Black Snake reflected the tribe's fear on the destruction of their own community and culture, and, ultimately, it reflected a question of cultural survival transformed into a question of whether there will be a clean water supply for the tribe in the future. In addition, judicial documents revealed another related matter that perhaps was not explicitly manifested during the demonstrations but, obviously, was a significant concern for the tribe. During the judicial process, several tribes pleaded claims under Treaty of Fort Laramie in 1851. The purpose was to draw attention to the tribe's fishing and hunting rights in the construction area. At first, the judge held that trust responsibilities were not violated during the construction work, and only after a lengthy judicial debate the judge and the court comprehended that the tribe referred to the harm which the project would cause for their traditional source of livelihood. Their concern was – among other matters – that the construction work might diminish the amount of game and fish in the area, and, consequently, have severe effects on the tribe's supplies of food.

Stand with Standing Rock movement increased public awareness on the Native American Indigenous matters among American majority and worldwide. The movement had many positive consequences for Native American Indigenous communities as well. On a grassroots level, Stand with Standing Rock movement empowered the members of the Oceti Sakowin and especially young Lakota, who have been suffering from poverty, unemployment, mental health problems, and depressing future prospects due to racism targeted on them by the American majority. The demonstrations against the Dakota Access Pipeline gave young people a chance to develop their Lakota identity, strengthen in-group coherence and relationships, and express themselves in a meaningful action. In general, Stand with Standing Rock movement might even have served as a channel for repressed emotions, and as such, the protests might have prevented a more serious confrontation. Instead, the importance of a peaceful action and a co-operation with the American majority were emphasized in the research material of this study, and, given that this positive trajectory continues, a reconciliation process might eventually begin between the American majority and Native American Indigenous peoples.

On the other hand, the protests revealed a potential inner conflict within the Standing Rock tribe. It seems that among the Oceti Sakowin exists groups which would like to implement significant reforms on Lakota society. The rise of native American Indigenous feminism is certainly one of the most important aspects of the protests. Moreover, there are some indications that some activists wished to question and challenge opinions and politics of the more conservative and traditional

groups among the Standing Rock tribe. Unfortunately, it was impossible to study further the role of the Red Warrior Society in the scope of this research project, but it seems that this group represents a counterforce for the official politics in Standing Rock. Another possible interpretation of the events is that the Red Warrior Society is a nationwide movement which might have supporters in Standing Rock. In that case, they would have participated on the demonstrations as guests. Furthermore, the actions of the Red Warrior Society might have served the attempts of those who wished to confront the official politics of Standing Rock and undermine the position of then Tribal Council Chairman David Archambault II.

A study of the judicial documents showed clearly how the American ideals of liberalism and individualism steer common sense in the United States. Historically, the idea of the United States is based on the ideas of individualism, liberty, equality, democracy, and justice. This research shows that the position of minorities is still very fragile in the United States. The American values emphasize equality of opportunity for all citizens. Liberty and freedom of choice are significant ideals in the American society since those make the equality of opportunity reachable for all Americans. Free will, entrepreneurship, and an urge to take charge of one's individual destiny are highly appreciated in the American society.

The American values are reflected in the judicial process between the Standing Rock tribe and the U.S. Army of Corps' Engineers. The power of the values is a factor that explains the situation in which the court and the district judge were so reluctant to admit that the Standing Rock tribe had reasons for their complaint. The court's intervention into the course of events, or issuance of orders that would have stopped the construction work, would have attacked the American ideals of entrepreneurship and financial success. Prior to the completion of the pipeline, the court held that U.S. Army of Corps' Engineers and Dakota Access LLC had acted according to the regulations, and only after the pipeline was already in operation, the court was willing to admit that a rupture in a pipeline would pose a real threat for the environment and for the indigenous community. Furthermore, other court case, *National Parks Conservation Association v. Semonite*, had to be ruled in other court before there were enough legal reasons to order U.S. Army of Corps' Engineers to prepare a full Environmental Impact Statement. It is likely that this statement will not stop oil from running beneath the Lake Oahe but at least it forces U.S. Army of Corps' Engineers to carefully assess the risks of an oil spill and to find solutions for worst-case scenarios beforehand. If these plans prove to be effective in the case of emergency, U.S. Army of Corps' Engineers shall avoid repeating past mistakes in oil spill control measures.

Political interests play a significant role in the events of Standing Rock. In this case, political interests were supporting Dakota Access Pipeline. President Barack Obama's administration managed to halt the construction work in September 2016 but as soon as President Donald Trump took the office, the project was continued as planned. It seems that President Obama was supporting Standing Rock but, on the other hand, his second term was reaching its end, and he probably knew that if the Republicans would win the elections, the project would be completed anyway. He probably just did not have means to change the course of actions.

It is shameful that the Standing Rock tribe had to spend years in a court room to prove their case. The judge managed to explain the judicial reasons for the court's decisions, but he used certain structures of language which might have offended the Standing Rock tribe and given a reason for further complaints. Furthermore, it seems that a judicial process tends to expand over a long period of time. This is certainly a significant problem. Many disadvantaged persons or deprived communities cannot afford a lengthy judicial process, i.e. they do not in fact have equal opportunities for a success in a court case.

In general, the whole Native American Indigenous community living in North America is still struggling with racism and the consequences of the continuing discrimination. Non-assimilated Native American Indigenous peoples usually live in the most deprived areas of the United States. There are some exceptions among Native American Indigenous tribes but e.g. Standing Rock struggles with poverty, unemployment, and high suicide rates among young people. Persistent inequality causes tensions in personal relationships among tribe members, and intergroup relationships might be very hostile as well. It seems that most of the Americans have forgotten the colonial history of the United States and the past malefactions towards Native American Indigenous peoples. Therefore, they accidentally hurt Native American Indigenous peoples and their traditions. On the other hand, racism is still tightly rooted in the American society. Persistent prejudices prevent communication on an equal basis and the development of positive intergroup contacts. This societal atmosphere makes it impossible to launch a reconciliation process. It seems that there is still a long way to go before Native American Indigenous peoples are accepted as equal partners in intercultural encounters.

Yet, a reconciliation process is a necessary measure if the Americans wish to take steps towards an effective co-operation and towards a truly equal society. Stand with Standing Rock environmental movement is a great example on peaceful resistance and a meaningful intergroup co-operation. Experiences on such co-operation are important for Americans as well. In order to be able to act respectfully towards Native American Indigenous peoples, the Americans need to learn more about indigenous cultures and that cannot happen without contacts to indigenous groups. This process might be slow, but it will eventually generate more inclusive practices and help Native American

Indigenous peoples to address issues that are important for them and which will have an influence on the American society as well.

Several matters related to Stand with Standing Rock movement need further attention and research in the future. The judicial process related to the Dakota Access Pipeline continues, and it is very likely that other court cases related to indigenous rights and environmental issues shall emerge in the future. Research projects on these processes is inevitable in order to acquire more knowledge on the development of the environmental law and its implementation in the United States. Another important research topic is certainly the development of the indigenous rights in the United States. From a social psychological perspective, it would be necessary to research group processes among the Oceti Sakowin and the development of the intergroup attitudes and relationships. Yet another important research topic are the meanings of Stand with Standing Rock movement for young Lakota. Research on the impact of the environmental movement among young Lakota would give more information on the contemporary Lakota culture and the position of traditions in it.

Bibliography

Primary Sources

- Braine, Theresa. Archaeological Experts Appalled at DAPL Sacred Site Destruction. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/archaeological-experts-appalled-at-dapl-sacred-site-destruction-vvgPYiKVjEGRPNn3yy5DLw> (accessed October 28, 2019).
- . Conflicting Accounts Emerge after Treaty Camp Police Action. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/conflicting-accounts-emerge-after-treaty-camp-police-action-PCS4rsMfhUi78umv3aLfVw> (accessed October 28, 2019).
- Champagne, Duane. The Dakota Access Pipeline and the Tyranny of the Majority. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/the-dakota-access-pipeline-and-the-tyranny-of-the-majority-hR5SkZgUzUrHpLMR376FA> (accessed October 28, 2019).
- . Fracking, Pipelines and Coal Projects Trample Indigenous Rights. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/fracking-pipelines-and-coal-projects-trample-indigenous-rights-GK8var-yfkGtDVC6KIs7vg> (accessed October 28, 2019).
- D'Errico, Peter. The U.S. Claim of Domination over Standing Rock Violates the Treaty of 1851. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from https://indiancountrytoday.com/archive/the-u-s-claim-of-domination-over-standing-rock-violates-the-treaty-of-1851-mbhIIluFEkOp_y9S9P4Xag (accessed October 28, 2019).
- Ditmer, Renae. Indigenous Women Front and Center at Anti-Trump DC Protest. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/indigenous-women-front-and-center-at-anti-trump-dc-protest-qodoBEf58EqNFnLfRKWqDA> (accessed October 28, 2019).
- . Standing Rock, Energy Transfer Partners Square off. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/standing-rock-energy-transfer-partners-square-off-GhCgqFQpakW6uDGF6B38XQ> (accessed October 28, 2019).
- Estes, Nick. 'The Supreme Law of the Land': Standing Rock and the Dakota Access Pipeline. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/the-supreme-law-of-the-land-standing-rock-and-the-dakota-access-pipeline-25phRkIJB0GmipEDLvPLPw> (accessed October 28, 2019).
- . Fighting for Our Lives: #NoDAPL in Historical Context. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/fighting-for-our-lives-nodapl-in-historical-context-YX3pCqnxq0ydUYA-njiwDw> (accessed October 28, 2019).

- Hopper, Frank. Chase Iron Eyes Explains Friday's Indigenous Peoples March on Washington. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://news-maven.io/indiancountrytoday/news/chase-iron-eyes-explains-friday-s-indigenous-peoples-march-on-washington-mr-BXlkJ8E2wE6Uad8e7wA/> (accessed October 28, 2019).
- Houska, Tara. Water Protector Legal Update: NoDAPL and Line 3. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/water-protector-legal-update-nodapl-and-line-3-9vU1DSqCZUe3AIES2CP9Dw> (accessed October 28, 2019).
- Indian Country Today*. The Dakota Access Pipeline Threat: By the Numbers. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/the-dakota-access-pipeline-threat-by-the-numbers-wCy1FR7JWUeybm6g8iisJg> (accessed October 28, 2019).
- . Leonard Peltier Message of Solidarity to Water Protectors and Standing Rock. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from https://indiancountrytoday.com/archive/leonard-peltier-message-of-solidarity-to-water-protectors-and-standing-rock-kVtM7xqkHUuXKWYZm_6GbQ (accessed October 28, 2019).
- . Red Warrior Camp Speaks. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/red-warrior-camp-speaks-li4sF4UeOkGWO3qyp0tGtA> (accessed October 28, 2019).
- . Sacred Burial Ground Sold to Dakota Access. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/sacred-burial-ground-sold-to-dakota-access-2-iMFAt120y9MOveOO5g7A> (accessed October 28, 2019).
- . Standing Rock Defendants Move to Dismiss on Basis of Factual Disputes. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/the-press-pool/standing-rock-defendants-move-to-dismiss-on-basis-of-factual-disputes-X91d-4pqDUWp0I5GCvG0-g> (accessed October 28, 2019).
- . Standing Rock Plaintiffs File First Amended Complaint. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from https://indiancountrytoday.com/the-press-pool/standing-rock-plaintiffs-file-first-amended-complaint-XDjer06e3U6_SF6gxEjP_g (accessed October 28, 2019).
- . Standing Rock Sioux Tribe Condemns Destruction and Desecration of Burial Grounds. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/standing-rock-sioux-tribe-condemns-destruction-and-desecration-of-burial-grounds-tbGDUq4PW0aOVUZEiVIweA> (accessed October 28, 2019).
- . Standing Rock Violence & Police Militarization. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/standing-rock-violence-police-militarization-bRdqDBnZ0ukeQx2erCyQA> (accessed October 28, 2019).

- . Standing Rock: Norway's Largest Private Investor Goes NoDAPL. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from https://indiancountrytoday.com/archive/standing-rock-norway-s-largest-private-investor-goes-nodapl-bTBVfxsL-BUa5iiLjJx_JnA (accessed October 28, 2019).
- . Standing Rock: The Biggest Story that No One's Covering. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/standing-rock-the-biggest-story-that-no-one-s-covering-Ua8gKUqonU-3S2y2ecQFkQ> (accessed October 28, 2019).
- . Faith Spotted Eagle on the Settler-Colonial Mind-Set. In *Indian Country Today* [database online]. Washington D.C., 2017. Available from <https://newsmaven.io/indiancountrytoday/archive/faith-spotted-eagle-on-the-settler-colonial-mind-set-GRbqpCUEv0WG-Ev0UhyXYQ/> (accessed October 28, 2019).
- . Dakota Access: 6 Peaceful Images from the Water Protectors at Standing Rock. In *Indian Country Today* [database online]. Washington D.C., 2016. Available from https://newsmaven.io/indiancountrytoday/archive/dakota-access-6-peaceful-images-from-the-water-protectors-at-standing-rock-8j3eNsmV_0i02pJiS45AcQ/ (accessed October 28, 2019).
- . Native Nations Rally in Support of Standing Rock Sioux. In *Indian Country Today* [database online]. Washington D.C., 2016. Available from <https://newsmaven.io/indiancountrytoday/archive/native-nations-rally-in-support-of-standing-rock-sioux-mlt8Ck6mgUajgGp9x1OqyA/> (accessed October 28, 2019).
- Indian Country Today* editorial team. DAPL Civil Suit Dropped against Archambault, Council Members. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from https://indiancountrytoday.com/archive/dapl-civil-suit-dropped-against-archambault-council-members-nZdl37GenUqDg1YEh_Mw_Q (accessed October 28, 2019).
- . Federal Permit Process for the Dakota Access Pipeline Was Illegal and Flawed. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/opinion/federal-permit-process-for-the-dakota-access-pipeline-was-illegal-and-flawed-YR8j6cVz0ku3yU1dQAxWZQ/2018-09-20T19:24:33.3201950Z/Tq00oIAIUkyW-7LJI9QNRg> (accessed October 28, 2019).
- . Senators Allege DAPL Builder Didn't Have Permit to Build Under Lake Oahe. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/senators-allege-dapl-builder-didn-t-have-permit-to-build-under-lake-oahe-wXkIqEI9fUCEgDFrewnmOA> (accessed October 28, 2019).
- . North Dakota Prosecutors Drop All Serious Charges against Chase Iron Eyes. In *Indian Country Today* [database online]. Washington D.C., 2018. Available from <https://newsmaven.io/indiancountrytoday/the-press-pool/news-release-the-lakota-people-s-law-project-in-what-defense-attorneys-are-calling-a-major-PCYFMLrVI02753t8eQhNLw/> (accessed October 28, 2019).

- LaDuke, Winona. The Black Snake Hears a Song: Declaring War on the Keystone Pipeline. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/the-black-snake-hears-a-song-declaring-war-on-the-keystone-pipeline-hAHnW8naiUq-gcTWH0fq2g> (accessed October 28, 2019).
- . LaDuke: The Largest Inland Oil Spill in U.S. History Happened Today in Minnesota. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from https://indiancountrytoday.com/archive/laduke-the-largest-inland-oil-spill-in-u-s-history-happened-today-in-minnesota-6Y2_aViF8k-UI5_eUsEoGA (accessed October 28, 2019).
- Luger, Chelsey. Luger: Achieving Humanity through Standing Rock. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/luger-achieving-humanity-through-standing-rock-DMsxInLZAEaNjzEMumu31A> (accessed October 28, 2019).
- Monet, Jenni. At Standing Rock, a Fight for Basic Survival. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/at-standing-rock-a-fight-for-basic-survival-QFHJCSOfkmpHFHoBKcA0Q> (accessed October 28, 2019).
- . Standing Rock Joins the World's Indigenous Fighting for Land and Life. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/standing-rock-joins-the-world-s-indigenous-fighting-for-land-and-life-W3scMZvL7UiMRRbdavMrJA> (accessed October 28, 2019).
- Newcomb, Steven. Dehumanizing Actions by North Dakota Police Violate 1851 Treaty of Fort Laramie. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/dehumanizing-actions-by-north-dakota-police-violate-1851-treaty-of-fort-laramie-HUP6cpMVwEyKbb66k6HTgA> (accessed October 28, 2019).
- . A Look at the U.S. Claim to Oceti Sakowin (the Great Sioux Nation). In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/a-look-at-the-u-s-claim-to-oceti-sakowin-the-great-sioux-nation-sTfzXFwXkyCfjVAXiTjww> (accessed October 28, 2019).
- Newcombe, Steven. The Dakota Access Pipeline and 'the Law of Christendom'. in *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/the-dakota-access-pipeline-and-the-law-of-christendom-6xTCiGAOLUy67Yr811eQOQ> (accessed October 28, 2019).
- Pember, Mary A. Another Day of Actions as Water Protectors Stand Firm. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/another-day-of-actions-as-water-protectors-stand-firm-Drb0oc9V9EWgWOq3yniX9g> (accessed October 28, 2019).
- . Army Corps' Treads Fuzzy Legal Line in Evaluating DAPL Permits. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from https://indiancountrytoday.com/archive/army-corps-treads-fuzzy-legal-line-in-evaluating-dapl-permits-AgJwNZ6i1EWg_WrYCpo_vQ (accessed October 28, 2019).

- . Breaking: Standing Rock Vows to Continue NoDAPL Fight in Wake of Court Injunction. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/breaking-standing-rock-vows-to-continue-nodapl-fight-in-wake-of-court-injunction-ulEC0-QiIE-UIzooplvlYQ> (accessed October 28, 2019).
- . DAPL Water Protectors at Risk for PTSD. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/dapl-water-protectors-at-risk-for-ptsd-Ek2449xIUCLdUSvl5h-vg> (accessed October 28, 2019).
- . Standing Ground on NoDAPL: Oceti Sakowin School Educates Next Generation. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/standing-ground-on-nodapl-oceti-sakowin-school-educates-next-generation-1zilBfDWukSSZOIYOwDRtg> (accessed October 28, 2019).
- . State-Commissioned Archaeological Study Denies Standing Rock Experts a Voice. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/state-commissioned-archaeological-study-denies-standing-rock-experts-a-voice-J7wklmu5R0SNUGNDkVcSQw> (accessed October 28, 2019).
- Schilling, Vincent. Judge Approves #NoDAPL Activist Chase Iron Eyes' Demand for Withheld Evidence. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/news/on-wednesday-judge-lee-christofferson-upheld-earlier-rulings-that-the-state-of-north-dakota-law-Qh4ir2J0qUCQG0MUSJuYRA> (accessed October 28, 2019).
- Taliman, Valerie. Thousands of Veterans Descend on Standing Rock to Protect and Serve. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/thousands-of-veterans-descend-on-standing-rock-to-protect-and-serve-CsmzQI5XsEOz9ZyQf2WoZw> (accessed October 28, 2019).
- . Veterans Ask for Forgiveness and Healing in Standing Rock. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/veterans-ask-for-forgiveness-and-healing-in-standing-rock-k2fLUonhqEy6D-NjnhIJJw> (accessed October 28, 2019).
- Trahan, Mark. Dakota Pipeline Schedule Is One More Story of Injustice. In *Indian Country Today* [database online]. Washington D.C., 2019. Available from <https://indiancountrytoday.com/archive/dakota-pipeline-schedule-is-one-more-story-of-injustice-uoTdOzC6dk26lsDrY-JDWQ> (accessed October 28, 2019).

Court Cases

- Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 2016 WL 4033936 (D.D.C.).
- Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 205 F. Supp. 3d 4 (D.D.C. 2016), WL 4734356.
- Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers*, 239 F. Supp. 3d 77 (D.D.C. 2017), WL 908538.

Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers, 255 F. Supp. 3d 101 (D.D.C. 2017), WL 2573994.

Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers, 282 F. Supp. 3d 91 (D.D.C. 2017), WL 4564714.

Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers, 280 F. Supp. 3d 187 (D.D.C. 2017), WL 6001726.

Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers, 249 F. Supp. 3d 516 (D.D.C. 2017), WL 1316918.

Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers, 301 F. Supp. 3d 50 (D.D.C. 2018), WL 1385660.

Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers, (D.D.C. 2018), WL 1967112.

Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers, No. CV 16-1534 (JEB), 2019 WL 161950 (D.D.C. Jan. 10, 2019).

Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers, No. CV 16-1534 (JEB), 2019 WL 2028709 (D.D.C. May 8, 2019).

Standing Rock Sioux Tribe v. U.S. Army Corps of Engineers, No. CV 16-1534 (JEB), 2020 WL 1441923 (D.D.C. Mar. 25, 2020).

Other Legal Documents

U.S. Congress, House, *Mni Wiconi Project Act of 1988*. HR 2772, 100th Cong., 1st sess., introduced in House June 24, 1987, <https://www.govinfo.gov/content/pkg/STATUTE-102/pdf/STATUTE-102-Pg2566.pdf>.

U.S. Congress, House, *Religious Freedom Restoration Act of 1993*. HR 1308, 103rd Cong., 1st sess., introduced in House March 11, 1993, <https://www.congress.gov/103/bills/hr1308/BILLS-103hr1308enr.pdf>.

U.S. President, Executive Order, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order 12986 of February 11, 1994,” *Federal Register* 59, no 32 (February 16, 1994): 7629

Secondary Sources

Andersson, Rani-Henrik. 2009. *Lakotat: Kotkan ja biisonin kansa*. Helsinki: Suomalaisen Kirjallisuuden Seura.

Associated Press. Company: Dakota Access Expansion Doesn’t Increase Risk. In *The New York Times* [database online]. New York, 2019. Available from <https://www.nytimes.com/aponline/2019/11/13/business/ap-us-dakota-access-pipeline-expansion.html?searchResultPosition=2> (accessed November 26, 2019).

- Benwell, Bethan, and Elizabeth Stokoe. 2006. *Discourse and Identity*. Edinburgh: Edinburgh University Press.
- Berger, Peter L., and Thomas Luckmann. 1971. *The Social Construction of Reality: A Treatise in the Sociology of Knowledge*. London: Penguin.
- Best, Joel. 2008. Historical Development and Defining Issues of Constructionist Inquiry. In *Handbook of Constructionist Research*, eds. Jaber F. Gubrium, James A. Holstein, 41–64. New York: Guilford Press.
- Bioneers. The Prophecy of the Black Snake. 2017 [cited 11/18/2019 2019]. Available from <https://youtu.be/rKKlx33B99I> (accessed 11/18/2017).
- Brown, Rupert, and Miles Hewstone. 2005. An Integrative Theory of Intergroup Contact. In *Advances in Experimental Social Psychology*, ed. Mark P. Zanna. Vol. 37, 255–343. London: Elsevier.
- Burr, Vivien. 2015. *Social Constructionism*. London: Routledge.
- Chokshi, Niraj, and Rueb, Emily S. Keystone Pipeline Leaks 383,000 Gallons of Oil in North Dakota. In *The New York Times* [database online]. New York, 2019. Available from <https://www.nytimes.com/2019/10/31/us/keystone-pipeline-leak.html> (accessed November 18, 2019).
- Christafferson, Dennis M. 2001. Sioux, 1930–2000. In *Handbook of North American Indians: Plains, part 2*, ed. Raymond J. DeMallie. Vol. 13, 821–839. Washington D.C.: Smithsonian Institution.
- Columbia Law School. Standing Rock Litigation | Contemporary Critical Thought. In Columbia University [database online]. New York City, 2019 [cited February 28, 2020]. Available from <https://ccct.law.columbia.edu/content/standing-rock-litigation>.
- Congressional Research Service. The Army Corps of Engineers' Nationwide Permits Program: Issues and Regulatory Developments. in Congressional Research Service [database online]. Silver Spring, MD, 2017 [cited April 2, 2020]. Available from <https://www.everycrsreport.com/reports/97-223.html>.
- Eagle, Jon S. Declaration of Jon Eagle, Sr. In Support of Motion for Preliminary Injunction. In Earthjustice [database online]. Washington, [cited May 8, 2019]. Available from <https://earthjustice.org/sites/default/files/press/2016/Declaration-of-Jon-Eagle-Sr.pdf>.
- Eccleston, Charles, and J. Peyton Doub. 2012. *Preparing NEPA Environmental Assessments: A User's Guide to Best Professional Practices*. New York: CRC Press.
- Estes, Nick. 2019. *Our History Is the Future: Standing Rock versus The Dakota Access Pipeline, and the Long Tradition of Indigenous Resistance*. London: Verso.
- Faith, Mike. Our Fight against the Dakota Access Pipeline Is Far from Over. In *The Guardian* [database online]. London, 2019. Available from <https://www.theguardian.com/commentis-free/2019/nov/15/dakota-access-pipeline-standing-rock> (accessed November 26, 2019).

- Fenelon, James V. 1997. From Peripheral Domination to Internal Colonialism: Socio-Political Change of the Lakota on Standing Rock. *Journal of World-Systems Research* 3 (2): 259–320 (accessed March 10, 2018).
- Fixico, Donald L. 2013. *Call for Change: The Medicine Way of American Indian History, Ethos, and Reality*. Lincoln: University of Nebraska Press.
- Foucault, Michel. 1980. *Power / Knowledge: Selected Interviews and Other Writings 1972–1977*. Trans. Colin Gordon, Leo Marshall, John Mepham and Kate Soper, ed. Colin Gordon. New York: Pantheon Books.
- . [1972] 1982. *The Archaeology of Knowledge & The Discourse on Language*. Trans. A. M. Sheridan Smith. New York: Pantheon Books.
- Gibson, Arrell M. 1988. Indian Land Transfers. In *Handbook of North American Indians, vol. 4, History of Indian-White Relations.*, eds. Arthur J. Ray, Wilcomb E. Washburn. Vol. 4, 211–229. Washington: Smithsonian Institution.
- Goodman, Amy. Standing Rock Special: Dallas Goldtooth on Police Violence & Repression of Movement against DAPL. In *Democracy Now!* [database online]. 2016. Available from https://www.democracynow.org/2016/11/24/standing_rock_special_dallas_goldtooth_on (accessed 11/12/2019).
- Gramsci, Antonio. 1971. *Selections from the Prison Notebooks of Antonio Gramsci*. Trans. Quintin Hoare and Geoffrey Nowell Smith, eds. Quintin Hoare, Geoffrey Nowell Smith. London: Lawrence & Wishart.
- Hays, Samuel P. 2000. *A History of Environmental Politics since 1945*. Pittsburgh: University of Pittsburgh Press.
- Hoare, George, and Nathan Sperber. 2016. *An Introduction to Antonio Gramsci – His Life, Thought and Legacy*. London: Bloomsbury.
- Ives, Peter. 2015. *Language and Hegemony in Gramsci*. London: Pluto Press.
- Johnson, Taylor N. 2019. The Dakota Access Pipeline and the Breakdown of Participatory Processes in Environmental Decision-Making. *Environmental Communication* 13 (3): 335–352 (accessed February 19, 2020).
- Joseph Jr., Alvin M. 1997. Modern America and the Indian. In *Indians in American History: An Introduction.*, eds. Frederick E. Hoxie, Peter Iverson, 198–217. Somerset: John Wiley & Sons.
- Kelly, Lawrence C. 1988. United States Indian Policies, 1900–1980. In *Handbook of North American Indians, vol. 4, History of Indian-White Relations.*, eds. Arthur J. Ray, Wilcomb E. Washburn. Vol. 4, 66–80. Washington: Smithsonian Institution.
- Lawson, Michael L. 2009. *Dammed Indians Revisited: The Continuing History of the Pick-Sloan Plan and the Missouri River Sioux*. Pierre: South Dakota State Historical Society Press.

- Levy, Marc. AP exclusive: FBI Eyes How Pennsylvania Approved Pipeline. In *The Washington Post* [database online]. Washington D.C., 2019. Available from https://www.washingtonpost.com/national/energy-environment/ap-exclusive-fbi-eyes-how-pennsylvania-approved-pipeline/2019/11/12/81baa290-058b-11ea-9118-25d6bd37dfb1_story.html (accessed November 18, 2019).
- Martínez, David. 2019. *Life of the Indigenous Mind: Vine Deloria Jr. and the Birth of the Red Power Movement*. New Visions in Native American and Indigenous Studies., eds. Margaret D. Jacobs, Robert Miller. Lincoln: University of Nebraska Press.
- McCormick, John. 1991. *Reclaiming Paradise: The Global Environmental Movement*. Bloomington: Indiana University Press.
- National Congress of American Indians. Tribal Nations and the United States: An Introduction. [cited October 25, 2017]. Available from http://www.ncai.org/resources/ncai_publications/tribal-nations-and-the-united-states-an-introduction (accessed 10/25/2017).
- National Park Service. National Park Service – Working with Native Americans. Available from https://www.nps.gov/history/tribes/National_Section_106.htm (accessed November 27, 2019).
- Parke-Sutherland, Tina. 2018. Ecofeminist Activism and the Greening of Native America. *American Studies in Scandinavia* 50 (1): 123–149.
- Roth, George. 2008. Recognition. In *Handbook of North American Indians, vol. 2, Indians in Contemporary Society.*, ed. Garrick A. Bailey. Vol. 2, 113–128. Washington: Smithsonian Institution.
- Shreve, Bradley G. 2014. *Red Power Rising: The National Indian Youth Council and the Origins of Native Activism*. Norman: University of Oklahoma Press.
- Smith, Linda Tuhiwai. 2012. *Decolonizing Methodologies: Research and Indigenous Peoples*. New York: Zed Books.
- Suoninen, Eero. 2016. Näkökulma sosiaalisen todellisuuden rakentumiseen. In *Diskurssianalyysi: Teoriat, peruskäsitteet, käyttö.*, eds. Arja Jokinen, Kirsi Juhila and Eero Suoninen, 229–247. Tampere: Vastapaino.
- The U.S. Department of Justice. Joint Statement from the Department of Justice, the Department of the Army and the Department of the Interior Regarding Standing Rock Sioux tribe v. U.S. Army Corps of Engineers. 2016 [cited February 20, 2020]. Available from <https://www.justice.gov/opa/pr/joint-statement-department-justice-department-army-and-department-interior-regarding-standing>.
- Trahant, Mark N. 1997. The 1970s: New Leaders for Indian Country. In *Indians in American History: An Introduction.*, eds. Frederick E. Hoxie, Peter Iverson, 235–252. Somerset: John Wiley & Sons.
- Treuer, David. 2019. *The Heartbeat of Wounded Knee: Native America from 1890 to the Present*. New York: Riverhead Books.

U.S. Army of Corps' Engineers. Map – Headquarters U.S. Army of Corps' Engineers. [cited 2/12/2020 Available from <https://www.usace.army.mil/Locations.aspx>.

Vergun, David. Recently-Retired Army Colonel Named Federal Engineer of Year. in The United States Army [database online]. 2018 [cited January 21, 2020]. Available from <https://www.army.mil/article/201041>.

Wetherell, Margaret, and Jonathan Potter. 1988. Discourse Analysis and the Identification of Interpretative Repertoires. In *Analysing Everyday Explanation: A Casebook of Methods.*, ed. Charles Antaki, 168–183. London: Sage.

Wilkinson, Charles F. 2005. *Blood Struggle: The Rise of Modern Indian Nations*. New York: Norton.

Appendix

TABLE 1: Examples of codes and quotes from the research material.

ID	Document	Quotation Content	Codes	Reference
15:1	2016-10-20	Those resources consist of a fully operational school that is combining conventional classes with real- world experience for a unique educational opportunity.	Indigenous empowerment	1:855 - 1:1013
15:2	2016-10-20	putting their education to immediate use by creating documentaries about their experiences and perspectives at the camp as part of a school project.	Indigenous empowerment	2:1 - 2:151
15:3	2016-10-20	“They said they were tired of reporters coming to the camp and telling stories about them and the school,” said Teresa Dzieg-lewicz, a teacher at Oceti Sakowin School. “They decided they wanted to tell their own stories.”	Indigenous empowerment	2:152 - 2:373
15:4	2016-10-20	I want people to see that we have lots of things here and that we can take care of ourselves in a good way. We have a school, a kitchen, security and supplies	Indigenous empowerment	3:137 - 3:295
15:9	2016-10-20	With the help of teachers at Oceti Sakowin, the Sacred Stone camp has also started a school of its own just across the Cannonball River.	Indigenous empowerment	4:1425 - 4:1561
16:11	2016-10-26	The other proved the transformative power and potential of anti-colonial resistance to successfully mobilize poor people against the rich and powerful	Indigenous empowerment	6:1839 - 6:1990
28:16	2017-01-24	Now is the time that we have to speak up, because if we are not speaking up, we are taking a stand back,” she said	Indigenous empowerment	4:721 - 4:835
29:5	2017-01-25	It is an honor to have been alive to see this happen with you young people. You are nothing but awesome in my eyes.	Indigenous empowerment	1:1343 - 1:1460
38:23	2017-05-25	it’s time that society overall stop ignoring Natives. It’s time to put them on the map as well.	Indigenous empowerment	4:589 - 4:684
42:13	2017-09-03	and lit a spark within new generations.	Indigenous empowerment	3:1007 - 3:1045
46:13	2018-09-18	and indigenous people from around the globe who have faced their own histories of dispossession and disregard for treaty rights gathered with us to defend sacred sites and the water that sustains life	Culture history traditions Environmental protection Indigenous empowerment Indigenous unity	2:2889 - 2:3090

6:8	2016-09-08	a new generation of Native people who have a grasp of the power of social media we now have a chance to flip the script that's been written in the past.	Indigenous empowerment	2:2950 - 2:3102
36:29	2017-04-16	one that will stand the test of time and carry us past the loss, the corruption, and the divisiveness	Indigenous empowerment	4:2158 - 4:2259
28:10	2017-01-24	Chanting, "Mni Wiconi, water is life," one woman from the Osage Nation captured another component of the indigenous participation: "We are here today to march so that people know that we are still here and that we will remain to be here and that we will stand for our water rights no matter what.	Indigenous empowerment Raising awareness on Indigenous issues	2:427 - 2:725
28:11	2017-01-24	We're here today to demonstrate because Native American land is...under siege right now," added another tribal protestor. "We are here because we have a voice, and we are not gone, we are still here....We are here standing together in solidarity...because more voices are bigger than one.	Indigenous empowerment Mutual solidarity Threat towards indigenous cultures	2:730 - 2:1013
28:14	2017-01-24	Long politically sidelined, indigenous women took their place near the front of the march	Indigenous empowerment	4:1 - 4:90
7:5	2016-09-23	"We stand with the Standing Rock Sioux Tribe and affirm their treaty rights, tribal sovereignty, and the protection of their lands, waters, cultural and sacred sites, and we stand with all those attempting to prevent further irreparable losses	Inter-group solidarity	2:613 - 2:857
7:7	2016-09-23	We are grateful to the more than 1,200 historians, archaeologists, historians and museum workers who understand the value of our sacred indigenous sites and artifacts and who stand with us on this issue	Inter-group solidarity	1:925 - 1:1128
11:12	2016-10-06	"We are receiving public support	Inter-group solidarity	3:508 - 3:540
11:13	2016-10-06	to join in calling on the federal government to include proper consultation with the Standing Rock Sioux Tribe in cultural and environmental surveys and impact statements regarding construction of the pipeline.	Inter-group solidarity	3:762 - 3:974

11:14	2016-10-06	We join the Standing Rock Sioux Tribe in denouncing the recent destruction of ancient burial sites, places of prayer and other significant cultural artifacts sacred to the Lakota and Dakota people,” the letter states.	Inter-group solidarity	3:977 - 3:1197
23:9	2016-12-04	“No group in the country has served a greater percentage in US military than Native Americans,” says Wood. “We need to support them.”	Inter-group solidarity	3:1 - 3:134
23:19	2016-12-04	The coalition of more than 320 Indian nations, has drawn millions of supporters worldwide	Inter-group solidarity	4:1038 - 4:1126
23:20	2016-12-04	Musicians Jackson Browne and Bonnie Raitt held a benefit concert on November 27 that generated \$100,000 in donations to the Standing Rock Sioux Tribe while other celebrities spoke out in support.	Inter-group solidarity	4:1211 - 4:1407
23:21	2016-12-04	have all spoken out repeatedly to support the Lakota’s rights;	Inter-group solidarity	4:1886 - 4:1947
23:23	2016-12-04	I’m here, serving my people,” said Brandee Paisano, a Laguna Pueblo veteran of the Navy. “And it’s not just my Native people, it’s everybody who lives in this country and you can’t ever let that oath die.	Inter-group solidarity	4:2109 - 4:2314
24:1	2016-12-08	When veterans Wes Clark Jr. and Michael Wood Jr. sent out the call for U.S.	Inter-group solidarity	1:438 - 1:558
24:3	2016-12-08	military veterans to deploy to Standing Rock Working together, Veterans Stand for Standing Rock, Veterans for Peace and Iraq Veterans Against the War came to serve and protect some 15,000 people who had come from all over the world to support Standing Rock	Inter-group solidarity	2:143 - 2:355
24:4	2016-12-08	many veterans spoke out against the violence, racism and injustice directed at Lakota people trying to protect burial grounds and their water supply.	Inter-group solidarity	2:511 - 2:663
24:5	2016-12-08	“I signed an oath to protect and serve my country against enemies both foreign and domestic, and to fight for the Constitutional rights of our people.	Inter-group solidarity	2:759 - 2:910
24:21	2016-12-08	Clark pledged to return to Standing Rock in service to the people	Inter-group solidarity	4:11 - 4:76
28:15	2017-01-24	others fell in to lend support on the many Indian issues	Inter-group solidarity	4:98 - 4:154

36:24	2017-04-16	and to the non-Native allies all over the world who have shown support.	Inter-group solidarity	4:1717 - 4:1788
45:2	2018-08-21	We and the US veterans who stood with us to protect Mother Earth are the true patriots	Environmental protection Inter-group solidarity Patriotism	2:419 - 2:505
45:21	2018-08-21	But today, thanks to my attorneys and to the support of millions around the world, we have another victory for the truth	Inter-group solidarity	3:1308 - 3:14284
12:15	2016-10-07	under constant threat from mining, logging, and dam and oil development.	Ecosystem under threat	2:401 - 2:474
16:12	2016-10-26	our current war is also defensive — it is to protect water and land from inevitable spoliation in the name of profit	Ecosystem under threat	7:52 - 7:169
16:15	2016-10-26	Halting the accumulation of capital, which in this context is the exploitation of our river and lands	Ecosystem under threat	7:801 - 7:902
20:7	2016-11-01b	A battle to protect the Earth and her people in the face of relentless extraction, destruction, and exploitation	Ecosystem under threat	4:947 - 4:1059
29:4	2017-01-25	in the resistance to the poisonous pipeline that threatens the life source of the Missouri and Mississippi Rivers.	Ecosystem under threat	1:1227 - 1:1341
34:14	2017-03-27	They often do not want to see development if it destroys the local environment,	Ecosystem under threat	2:896 - 2:975
38:5	2017-05-25	protesting the threat that the pipeline posed to water,	Ecosystem under threat	1:742 - 1:797
41:6	2017-07-22	Usually projects that have not reported on significant environmental and human hazards are stopped until further review is completed.	Ecosystem under threat	2:748 - 2:881
41:7	2017-07-22	While additional studies, previously neglected, might show that the Standing Rock Sioux people and their hunting and fishing products are at risk from the Dakota Access Pipeline, such a finding would not necessarily lead to stopping pipeline oil shipments	Ecosystem under threat	2:884 - 2:1140
41:8	2017-07-22	The National Environmental Policy Act of 1970 provides procedures for securing evidence about the possible negative environmental impacts of a project to harm local people, plants, and animals	Ecosystem under threat	2:1143 - 2:1335
46:9	2018-09-18	Among other concerns, we sought to highlight the very real risk of an oil spill	Ecosystem under threat	2:1431 - 2:1509

46:11	2018-09-18	Within the first six months of operation, according to news reports, DAPL leaked at least five times.	Ecosystem under threat	2:2553 - 2:2656
7:17	2016-09-23	the Dakota Access Pipeline's illegal push toward contaminating Sioux water	Ecosystem under threat	2:1500 - 2:1575
23:18	2016-12-04	Its path cuts across unceded Treaty land, and this re-routing has led to charges of environmental racism	Environmental racism	4:396 - 4:500
32:5	2017-03-02	an environmentally racist project	Environmental racism	2:2640 - 2:2673
36:6	2017-04-16	We end up in situations like the one we've been dealing with for over a year now: a corporation decided to put the integrity of our drinking water at risk instead of the water of a town just north of us simply because, to them, hurting us is less cruel than hurting our white neighbors.	Environmental racism	2:239 - 2:527
38:20	2017-05-25	The U.S. Army Corps of Engineers rerouted the pipeline to avoid threatening the drinking water of the residents of Bismarck, North Dakota, but sent it right through territory disputed by the Sioux, threatening their drinking water	Environmental racism	3:3142 - 3:3373
45:14	2018-08-21	"The oil company demonstrated racial bias by moving the pipeline from a white community to the edge of the Standing Rock Sioux Reservation	Environmental racism	2:2742 - 2:2880